

After Recording Return to:
Housing and Community Services
Attn: Rick Abrego
Multifamily Finance and Resources Section
725 Summer Street, Suite B
Salem, OR 97301-1266

AmeriTitle 17:48:00 AM

2017-011106
Klamath County, Oregon
09/29/2017 04:07:01 PM
Fee: \$172.00

SPACE ABOVE FOR RECORDERS USE

LINE OF CREDIT INSTRUMENT
MAXIMUM PRINCIPAL AMOUNT TO BE ADVANCED: \$500,000.00
Provided however this amount may be exceeded by advances to complete construction
pursuant to ORS 86.155(2)(c)

FINAL MATURITY DATE: December 31, 2079

HOUSING AND COMMUNITY SERVICES DEPARTMENT
STATE OF OREGON

HOME INVESTMENT PARTNERSHIPS PROGRAM

DEED OF TRUST,
LINE OF CREDIT DEED OF TRUST,
ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING

THIS DEED OF TRUST, LINE OF CREDIT DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Trust Deed") is made this 29 day of September, 2017, among:

PARTIES:

Grantor(s): (herein "Grantor" or "Borrower") **Sky Meadows, LLC,**
An Oregon limited liability company
1007 NW Rimrock
Redmond, Oregon 97756

Trustee: **AmeriTitle, Inc**
300 Klamath Avenue
Klamath Falls, Oregon 97601

Beneficiary:
(herein, the "Department"
or the "Beneficiary") **The STATE OF OREGON,** acting by and through
its **Housing and Community Services Department,**
725 Summer Street NE, Suite B
Salem, Oregon 97301-1266

WHEREAS, the Department is willing to make a loan of **Five Hundred Thousand Dollars (\$500,000.00)** (the "Loan") to **Sky Meadows, LLC** an Oregon limited liability company ("Borrower"), to be evidenced by a promissory note of even date (the promissory note, including as modified, supplemented,

extended, renewed, or replaced from time to time is referred to below as the “Note”) and a loan agreement of even date (the loan agreement, including as amended, extended or replaced from time to time is referred to below as the “Loan Agreement”); and

WHEREAS, as a condition of the Loan to Borrower, the Department has required, and Grantor has agreed, *inter alia*, to execute and deliver this Deed of Trust, Line of Credit Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing (which, including as amended, modified, supplemented, extended, renewed, or replaced from time to time is referred to below as the “Trust Deed” or “Security Instrument”) and to execute and record a declaration of restrictive covenants and equitable servitudes (the “Declaration”) limiting the operation of the Trust Property more fully described below.

NOW, THEREFORE, for good and valuable consideration including, but not limited to the Loan, receipt of which is hereby acknowledged, and for the purpose of securing the Obligations of Grantor described herein, Borrower irrevocably grants, conveys, assigns and transfers to Trustee, in trust for the benefit and security of the Department, **with** power of sale and right of entry and possession, and mortgages and grants a security interest to the Department in and to all of Grantor’s present and after-acquired right, title, and interest in and to the following described property located in the County of **Grant**, State of Oregon, and more particularly described in Exhibit A attached hereto and incorporated herein (the “Property”);

TOGETHER WITH all the improvements now or hereafter erected on the Property, and all easements, rights, appurtenances and rents (subject however to the rights and authorities given herein to the Beneficiary to collect and apply such rents) with respect to the Property, all of which are assigned to Beneficiary, and, subject to the terms of this Trust Deed, Beneficiary is authorized to collect and receive such proceeds, to give proper receipts and acquittances for the proceeds, and to apply them to the Obligations (as defined below);

All of the above, i.e., the Property, the improvements, and additional security together with proceeds and products of all the foregoing, is sometimes referred to below as the “Trust Property” or “Project”; and

TO HAVE AND TO HOLD the Trust Property by Trustee and its successors and assigns for the benefit of the Beneficiary and its successors and assigns, forever.

PROVIDED HOWEVER, that if all the Obligations are paid, performed and satisfied in full, together with all other covenants and commitments to be performed by Grantor or Borrower in the Loan Documents (as defined below), then Trustee shall execute and deliver to Grantor, without warranty, a reconveyance of the Trust Property.

The transaction documents, including this Trust Deed, the Note, the Loan Agreement, the Declaration and all other agreements or instruments executed at any time in connection therewith, as they may be amended or supplemented from time to time are sometimes collectively referred to below as the “Loan Documents.” The terms of the other Loan Documents are hereby incorporated herein by reference.

TO PROTECT THE SECURITY OF THIS TRUST DEED AND TO ASSURE REPAYMENT OF THE LOAN AND PERFORMANCE OF ALL OBLIGATIONS BY GRANTOR AND BORROWER UNDER THE LOAN DOCUMENTS, GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

ARTICLE I - Particular Covenants and Warranties of Grantor

- 1.01 Obligations Secured. This Trust Deed secures the following, collectively referred to as the "Obligations":
- (1) The payment of the Note, the final maturity date of which is **December 31, 2079**, if not accelerated, including but not limited to principal and interest; and
 - (2) The payment and performance of all other debts and obligations in the Trust Deed and in the other Loan Documents, including reimbursement of security protection payments or advances made, and costs and expenses incurred by the Beneficiary which Obligations, together with those Obligations identified below in subsection (3), are not subject to automatic waiver under the terms of the Note, but which also may be waived by the Beneficiary at its sole discretion; and
 - (3) The payment and performance of any and all other debts and obligations of Borrower and Grantor to the Beneficiary of any nature whatsoever that relate to the Project, whether direct or indirect, primary or secondary, joint or several, liquidated or unliquidated, whenever and however arising, and whether or not reflected in a written agreement or instrument (including the Loan Documents).
- 1.02 Payment of Indebtedness; Performance of Covenants and Warranties. Borrower shall duly and punctually pay all Indebtedness and Grantor or Borrower shall perform all of its other respective Obligations. If payment of any amounts required under the Loan Documents (sometimes hereafter, the "Indebtedness") is delinquent more than fifteen (15) days, Borrower shall pay a late charge of five percent (5%) of the delinquent amount the first month and an additional one percent (1%) per month thereafter in addition to the delinquent amount.
- 1.03 Property. Grantor warrants that it holds good and marketable title to the Trust Property, free and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those specifically listed in Schedule A. Grantor covenants that it shall forever defend Beneficiary's and Trustee's rights under this Trust Deed against the adverse claims and demands of all persons.
- 1.04 Further Assurances; Filing; Refiling; Etc.
- (1) Grantor shall execute, acknowledge, and deliver, from time to time, such further instruments as the Department or Trustee reasonably may require to accomplish the purposes of this Trust Deed including UCC financing statements to perfect the security interest in personal property.
 - (2) Grantor, immediately upon the execution and delivery of this Trust Deed, and thereafter from time to time, shall cause this Trust Deed, any supplemental security agreement, mortgage, or deed of trust and each instrument of further assurance, to be recorded and re-recorded (and filed) in such manner and in such places as may be required by any present or future law in order to perfect, and continue perfected, the lien and estate of this Trust Deed.
 - (3) Grantor shall pay all filing, recording and re-recording fees, and all incidental expenses and taxes. Grantor also shall pay the premium for any loan policy of title insurance obtained to insure the validity and priority of this Trust Deed.

1.05 Compliance with Laws. Grantor further represents, warrants, and covenants that:

- (1) The Property has been developed, or will be developed, and all improvements, if any, have been constructed, or will be constructed, and maintained, in compliance with all applicable laws, statutes, ordinances, regulations, and codes of all federal, state, and local governments (collectively "Laws"), and all covenants, conditions, easements, and restrictions affecting the Trust Property, including those restrictive covenants and equitable servitudes created under the Declaration (collectively "Covenants"); and
- (2) Grantor and its operations upon the Trust Property currently comply, and will hereafter comply in all material respects with all applicable Laws and Covenants.

1.06 Definitions; Environmental Covenants; Warranties and Compliance.

- (1) For purposes of this Section, "Environmental Law" means any federal, state, or local law, statute, ordinance, or regulation pertaining to Hazardous Substances, health, industrial hygiene, or environmental conditions, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 USC §§ 9601-9675, the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended, 42 USC §§ 6901-6992 and ORS Chapters 465, 466, 468A and 468B, and any similar federal, state or local law, statute, ordinance, rule, or regulation to and including those related to land use and zoning, energy and industrial facilities siting or occupational safety and health.
- (2) For the purposes of this Section, "Hazardous Substance" includes without limitation:
 - (a) All "hazardous substances" as designated pursuant to 40 CFR Part 302 or any similar regulation now existing or hereafter promulgated;
 - (b) All "hazardous wastes" within the meaning provided in 40 CFR § 261.3 or any similar regulation now existing or hereafter promulgated;
 - (c) All "extremely hazardous substances" as listed in 40 CFR Part 355 or any similar regulation now existing or hereafter promulgated;
 - (d) All "hazardous chemicals" as defined under 29 CFR § 1910.1200(c) or any similar regulation now existing or hereafter promulgated;
 - (e) All "toxic chemicals" listed in 40 CFR Part 372 or any similar regulation now existing or hereafter promulgated;
 - (f) Those substances defined as "hazardous" or "toxic" in the Hazardous Materials Transportation Act, 49 USC §§ 1801-1819 or in any amendment thereto, or listed in 49 CFR Part 172 or any similar regulation now existing or hereafter promulgated;
 - (g) All materials, wastes, and substances that are designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 USC §§ 1251-1387 (33 USC § 1321) or listed pursuant to Section 3076 of the Clean Water Act (33 USC § 1317);
 - (h) All "hazardous wastes" as defined in ORS 466.005(7), in any amendments thereto and in any rule or order promulgated pursuant thereto;

- (i) All materials, substances, and wastes that are or which contain (A) asbestos; (B) polychlorinated biphenyls; (C) explosives, except such explosives as are used during construction in accordance with law; (D) petroleum, and any fractions thereof, or (E) radioactive materials; and
 - (j) Such other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations.
- (3) Grantor will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under or about the Trust Property or the Trust Property's groundwater, or transport to or from the Trust Property, any Hazardous Substance and will not permit any other person to do so, except for such Hazardous Substances that reasonably may be used in the construction of the Improvements and in the ordinary course of Grantor's business in operating the Trust Property in accordance with the Loan Documents and in compliance with all Environmental Laws, including but not limited to those relating to licensure, notice, and recordkeeping.
- (4) Grantor will keep and maintain the Trust Property in compliance with, and shall not cause or permit all or any portion of the Trust Property, including groundwater, to be in violation of any Environmental Law.
- (5) Grantor shall give prompt (and not later than within 15 days) written notice to the Department of:
- (a) Any proceeding, inquiry, or notice by or from any governmental authority with respect to any alleged violation of any Environmental Law or the presence of any Hazardous Substance on the Trust Property or the migration of any Hazardous Substance from or to other premises;
 - (b) All known claims made or threatened by any person against Grantor or with respect to the Trust Property relating to any loss or injury resulting from any Hazardous Substance or the violation of any Environmental Law;
 - (c) The existence of any Hazardous Substance on or about all or any portion of the Trust Property; or
 - (d) Grantor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Trust Property that could in Grantor's judgment cause any restrictions on the ownership, occupancy, transferability, or use of the Trust Property under any Environmental Law.
- (6) Grantor shall promptly (and not later than within 15 days) provide to the Department copies of all reports, documents, and notices provided to or received from any agency administering any Environmental Laws. The Department shall have the right to join and participate, in its own name if it so elects, in any legal proceeding or action initiated with respect to the Trust Property in connection with any Environmental Law and have its reasonable attorney fees in connection with such an action paid by Grantor, if the Department determines that such participation is reasonably necessary to protect its right, title or interest in the Trust Property.
- (7) If, at any time, the Department has reason to believe that any release, discharge, or disposal of any Hazardous Substance affecting the Trust Property has occurred or is threatened, or if the Department has reason to believe that a violation of an Environmental Law has occurred or may occur with respect to the Trust Property, the Department may require Grantor to obtain or may itself obtain, at Grantor's expense, an environmental assessment of such condition or threatened condition by a qualified environmental consultant. Grantor shall promptly provide to the Department a complete copy of any environmental assessment obtained by Grantor.
- (8) In the event that any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature (the "Remedial Work") is required under any applicable

Environmental Law, any judicial order, or by any governmental agency or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance on, under, or about all or any portion of the Trust Property, or the contamination (whether presently existing or occurring after the date of this Trust Deed) of the buildings, facilities, soil, groundwater, surface water, air, or other elements on or under any other property as a result of Hazardous Substances emanating from the Trust Property, Grantor shall, within 30 days after written demand by the Department for Grantor's performance under this provision (or such shorter period of time as may be required under any applicable law, regulation, order, or agreement), commence and thereafter diligently prosecute to completion, all such Remedial Work. All costs and expenses of such Remedial Work shall be paid by Grantor including, without limitation, the Department's reasonable attorney fees and costs incurred in connection with monitoring or review of the legal aspects of such Remedial Work. In the event Grantor shall fail to timely commence, or cause to be commenced, such Remedial Work, the Department may, but shall not be required to, cause such Remedial Work to be performed. All costs and expenses incurred by the Department in connection with the Remedial Work may be added by the Department to the Obligations secured by this Trust Deed and shall bear interest until paid at the rate provided in the Note.

(9) Grantor shall (consistent with ORS Chapter 180 and the Oregon Tort Claims Act) save, hold the Department, its officers, employees, agents, successors, and assigns, harmless from, indemnify them for, and defend them against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to any violation of any Environmental Law, any breach of Grantor's warranties in this Section, or the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under, or about the Trust Property, including without limitation the costs of any required repair, cleanup, containment, or detoxification of the Trust Property, the preparation and implementation of any closure, remedial or other required plans, reasonable attorney fees and costs (including but not limited to those incurred in any proceeding, including bankruptcy and arbitration proceedings, and in any review or appeal), fees, penalties, and fines.

(10) Grantor represents and warrants to the Department, except in those matters excused in writing by the Department following prior written notice from Grantor, that:

- (a) Neither the Trust Property nor Grantor is in violation of or subject to any existing, pending, or threatened investigation by any governmental authority under any Environmental Law.
- (b) Grantor has not and is not required by any Environmental Law to obtain any permit or license other than those it has obtained to construct or use the Improvements.
- (c) To the best of Grantor's knowledge, no Hazardous Substance has ever been used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under, or about the Trust Property in violation of any Environmental Law.

(11) All representations, warranties, and covenants in this Section shall survive the satisfaction of the Obligations, the reconveyance of the Trust Property, or the foreclosure of this Trust Deed by any means.

1.07 Maintenance and Improvements. Grantor shall not permit all or any part of the Trust Property to be removed, demolished, or materially altered without the Department's prior written consent; provided, however, that Grantor may remove, demolish, or materially alter such Improvements as become obsolete in the usual conduct of Grantor's business, if the removal or material alteration does not materially detract from the operation of the Grantor's business and if all improvements that are demolished or removed are promptly replaced with Improvements of like or greater value and quality. Grantor shall maintain every portion of the Trust Property in good repair, working order, and condition, except for reasonable wear and tear of Improvements, and shall at the Department's election restore, replace, or rebuild all or any part of the Trust Property now or hereafter damaged or destroyed by any casualty (whether or not insured against

or insurable) or affected by any Condemnation (as defined in Section 2.01 below). Grantor shall not commit, permit, or suffer any waste, strip, or deterioration of the Trust Property. Grantor's obligation to provide additional funding for casualty or Condemnation restoration, replacement or rebuilding shall only be amounts necessary after application of available casualty insurance or Condemnation proceeds.

1.08 Liens. Grantor shall pay when due all claims for labor, materials, or supplies that if unpaid might become a lien on all or any portion of the Trust Property, provided that the existence of any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right thereto, or the existence of a tax or statutory lien, shall not constitute a violation of this Section if payment is not yet due under the contract that is the foundation thereof or under applicable law, as the case may be, subject to the provisions of Section 1.09 with respect to the right to contest certain liens, and the provisions of this Section. Grantor shall not create, or suffer, or permit to be created, any mortgage, deed of trust, lien, security interest, charge, or encumbrance upon the Trust Property prior to, on a parity with, or subordinate to the lien of this Trust Deed, except as specifically provided in Schedule A.

1.09 Impositions.

(1) Grantor shall pay or cause to be paid, when due and before any fine, penalty, interest, or cost attaches, all taxes, assessments, fees, levies, and all other governmental and non-governmental charges of every nature now or hereafter assessed or levied against any part of the Trust Property (including, without limitation, levies or charges resulting from Covenants), or on the lien or estate of the Department or Trustee (collectively, the "Impositions") provided that Grantor may pay annual real and personal property taxes in installments in accordance with ORS 311.505. In the event of the passage or promulgation after the date of this Trust Deed of any applicable law or regulations, creating or providing for any tax, assessment, charge or other Imposition levied or assessed upon the Department with respect to the transaction evidenced by the Note and this Trust Deed, which may not lawfully be paid by the Grantor, the Indebtedness secured hereby, together with interest due thereon, shall, at the option of the Department, become immediately due and payable, pursuant to the terms of this Trust Deed.

(2) Grantor may, at its expense and after prior written notice to the Department, contest by appropriate legal, administrative, or other proceedings conducted in good faith and with due diligence, the amount, validity, or application, in whole or in part, of any Imposition or lien on the Trust Property or any claim of any laborer, materialman, supplier, or vendor or lien, and may, with the written permission of the Department (which permission the Department may give or withhold at its sole discretion), withhold payment of the same pending completion of such proceedings if permitted by law, provided that (a) such proceedings shall suspend collection from the Trust Property; (b) no part of or interest in the Trust Property will be sold, forfeited, or lost if Grantor pays the amount or satisfies the condition being contested, and Grantor would have the opportunity to do so in the event of Grantor's failure to prevail in the contest; (c) neither the Department nor Trustee shall, by virtue of such permitted contest, be exposed to any risk of liability for which Grantor has not furnished additional security as provided in clause (d) below; and (d) Grantor shall have furnished to the Department cash, corporate surety bond, or other additional security in respect to the claim being contested or the loss or damage that may result from Grantor's failure to prevail in such contest in an amount sufficient to discharge the Imposition and all interest, costs, attorney fees, and other charges that may accrue in connection with the Imposition. Grantor shall promptly (and not later than within 10 days) satisfy any applicable final judgment.

(3) Grantor shall furnish to the Department, promptly upon request (and not later than within 10 days), satisfactory evidence of the payment of all Impositions, including receipts for payment of same. The Department is hereby authorized to request and receive from the responsible governmental and nongovernmental personnel written statements with respect to the accrual and payment of all Impositions. Grantor's timely deposit of escrow payments with the Department as required pursuant to the Operating Documents will satisfy Grantor's duty to pay that portion of any Imposition for which the escrow is established.

1.10 Books and Records; Inspection of the Property. Grantor shall keep complete and accurate records and books of account with respect to the Trust Property and its operation in accordance with generally accepted accounting principles consistently applied. Grantor shall permit Trustee, the Department, and their authorized representatives to enter and inspect the Trust Property, and to examine and make copies or extracts of the records and books of account of the Grantor with respect to the Trust Property, all at such reasonable times (taking into account any notice period Grantor must provide to any of its tenants) as the Department or Trustee may choose. The Trustee, the Department, and their authorized representatives shall have no duty to make any such inspections and shall not be liable to the Grantor or any person in possession if it makes such an inspection or examination and copying of records.

1.11 Limitations of Use. Grantor shall not initiate, join in, or consent to any rezoning of the Property or any change in any Covenant or other public or private restrictions limiting or defining the uses that may be made of all or any part of the Trust Property without the prior written consent of the Department.

1.12 Insurance.

(1) Property and Other Insurance. Grantor, at its own expense, shall obtain and maintain in full force and effect, for the benefit of the Department, during the term of this Trust Deed: (a) all-risk property insurance, including but not limited to fire, flood, earthquake and extended coverage, together with endorsements for replacement cost, inflation adjustment, vandalism, malicious mischief, and sprinkler damage coverages, all in amounts not less than the full replacement cost of all Improvements, without reduction for co-insurance; (b) comprehensive general liability insurance, including liabilities assumed under contract, with limits, coverages, and risks insured acceptable to the Department and as it may require from time to time, and in no event less than \$1,500,000 combined single limit coverage; and (c) unless the Department otherwise agrees in writing, rent loss or business interruption insurance in an amount not less than the total due for twelve months worth of the rents provided for in all leases for the Trust Property. In addition, Grantor shall obtain and maintain all such other insurance coverages, which at the time are commonly carried for similar property, in such amounts as the Department may require from time to time.

(2) Insurance Companies and Policies. All insurance shall be written by a company or companies reasonably acceptable to the Department with a rating of A VIII or better as provided in Best's Rating Guide; shall contain a long form mortgagee clause in favor of the Department with loss proceeds under any policy payable to the Department, subject to the terms of this Trust Deed; shall require 30 days' prior written notice to the Department of cancellation or reduction in coverage; shall contain waivers of subrogation and endorsements that no act or negligence of Grantor or any occupant, and no occupancy or use of the Property for purposes more hazardous than permitted by the terms of the policy will affect the validity or enforceability of such insurance as against the Department; shall be in full force and effect on the date of this Trust Deed; and shall be accompanied by proof of premiums paid for the current policy year. The Department shall be named as additional insured on all policies. The Grantor shall pay all premiums on all insurance at least ten (10) days prior to the date the premium on said policy shall become due and payable. Grantor shall forward to the Department, certificates evidencing the coverages required under this Trust Deed and copies of all policies.

(3) Blanket Policy. If a blanket policy is issued, a certified copy of such policy shall be furnished together with a certificate indicating that the Trust Property and the Department are insured under such policy in the proper designated amount.

(4) Insurance Proceeds. All proceeds from any casualty insurance on the Trust Property shall be used in accordance with the provisions of Section 1.14.

WARNING

Unless you (the Grantor) provide us (the Department) with evidence of the insurance coverage as required by this Trust Deed, we (the Department) may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral (the Trust Property) becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your loan balance. If the cost is added to your loan balance, the interest rate on the underlying loan will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage covered or any mandatory liability insurance requirements imposed by applicable law.

The requirements of this Section 1.12 will be deemed to be met so long as Grantor carries the insurance on the project required by the construction or term lender during the period of time those respective loans are outstanding.

1.13 Assignments of Policies upon Foreclosure. In the event of foreclosure of the lien of this Trust Deed or other transfer of title, or assignment of the Trust Property in whole or in part, all right, title, and interest of Grantor in and to all policies of insurance procured under Section 1.12 shall inure to the benefit of and pass to the successors in interest of Beneficiary and its successors or the purchaser or grantee of all or any part of the Trust Property.

1.14 Casualty/Loss Restoration.

(1) After the occurrence of any casualty to the Property, whether or not required to be insured against as provided in this Trust Deed, Grantor shall give prompt written notice of the casualty to the Department, specifically describing the nature and cause of such casualty and the extent of the damage or destruction to the Trust Property, as well as appropriate notice, including by mail, to the insurance carrier. The Department may make proof of loss if it is not made promptly and to the Department's satisfaction by Grantor.

(2) Grantor assigns to the Department all insurance proceeds that Grantor may be entitled to receive with respect to any casualty. The Department may, at its sole option, apply the insurance proceeds to the reduction of the Obligations in such order as the Department may determine, whether or not such obligations are then due, or apply all or any portion of the insurance proceeds to the cost of restoring and rebuilding the portion of the Trust Property that was damaged or destroyed. In the event that the Department elects to apply the insurance proceeds to rebuilding and restoration, the Department shall be entitled to hold the proceeds, and the proceeds shall be released only on such terms and conditions as the Department shall require in its sole discretion, including but not limited to prior approval of plans and release of liens. No proceeds shall be released if Grantor is in default under this Trust Deed.

(3) The Department is hereby authorized in the event of loss or casualty to compromise and to settle all claims on any policy on such terms as it deems appropriate. The Grantor shall furnish promptly to the Department a copy of any proof of loss given to the insurance carrier. The Department will consult with Grantor, or make reasonable efforts to consult with Grantor, prior to compromising or settling any or all claims.

(4) The Department, at its sole discretion, may tender such insurance proceeds, less any legal costs, fees or other expenses incurred by the Department, to Grantor to pay for the restoration of the improvements, provided that the Department determines at its sole discretion that such restoration is economically and legally feasible. Any such tender of insurance proceeds by Department or the application of same by Grantor for restoration of the improvements shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such default or notice.

(5) In the event of a casualty loss, Lender will not unreasonably withhold its permission to permit the proceeds to be used to rebuild if Grantor obtains the consent of the construction lender or term lender to use the proceeds to rebuild or repair pursuant to the terms of the construction loan documents or term loan documents as the case might be.

1.15 Grantor's Duty to Pay Utilities. The Grantor will pay or cause to be paid before the same become delinquent or subject to interest or penalties, all charges made by utility companies, public or private, for electricity, gas, heat, water or sewer furnished to or used in connection with the Trust Property and, upon written request by the Department, will promptly deliver to the Department receipts for the payment of such charges.

1.16 Reserves for Impositions, Insurance and Other Charges. To protect more fully the security of this Trust Deed, the Grantor, together with and in addition to the regular payments of interest, of principal and interest, or of principal, interest and other Indebtedness, as the case may be, under the terms of the Note and other Loan Documents, if requested by the Department, will pay the Department, or such other agent of the Department, as the Department directs in writing, the following sums:

(1) Commencing on such date as the Department, in its discretion, shall designate to Grantor, and thereafter together with and in addition to any payments required by the Note and other Loan documents, a sum equal to the land lease payments, if any, next due, plus the premiums that will next become due and payable on the policy or policies of insurance covering the Property, plus taxes, assessments and other Impositions next due on the Trust Property (all estimated by the Department, and less all sums already paid therefor). These sums may be held by the Department or its agent in escrow to pay said land lease payments, premiums, taxes, special assessments and other Impositions.

(2) If the sums so paid are insufficient to satisfy any Imposition, including land lease payments, or insurance premiums when due, Grantor shall pay any deficiency to the Department or its agent upon demand. The reserves may be commingled with the Department's other funds, and the Department shall not be required to pay interest to Grantor on such reserves. The Department shall not hold the reserve in trust for Grantor, and the Department shall not be the agent of Grantor for payment of the taxes and assessments required to be paid by Grantor.

(3) All payments required to be made by Grantor pursuant to this Section and all payments to be made under the Note and other Loan Documents shall be paid when due (unless otherwise specifically provided by the Department in a signed writing). The Department may apply any payments from Borrower under this Trust Deed to the following items in the following order of priority: (i) land lease payments, taxes, special assessments, other Impositions, fire and other insurance premiums, penalties, account deposits due under the Loan Documents, Obligations other than Note principal and interest; (ii) interest on the Note; and (iii) Note principal. The Department also may apply payments hereunder in such other form from time to time as to the Department seems reasonable.

1.17 Use of Mortgaged Property.

(1) Grantor will use the Trust Property in a manner consistent with the representations in the application to the Department for the Loan. The Grantor will keep the Trust Property, including improvements now or hereafter erected on the Property in good repair and condition, ordinary depreciation excepted. The Grantor will not do any act or thing which would jeopardize any subsidy payable with respect to the occupancy of all or any portions of the Trust Property, and will not abandon the Trust Property. In the event of the failure of the Grantor to maintain the Trust Property in good repair or operation, the Department may make such repairs or undertake such other action at Grantor's expense as in the Department's sole discretion it may deem necessary for the proper operation and preservation thereof, and any and all sums paid for such repairs, verification or enforcement shall bear interest from the date of payment at the rate specified in the Note, shall constitute an Obligation and shall be due from and payable by the Grantor on demand, and shall be fully secured by this Trust Deed.

(2) The Property is not currently used for agriculture, timber or grazing purposes. Grantor understands and agrees that this Trust Deed is, and will constitute, a commercial deed of trust and not a residential trust deed under Oregon for family or household purposes.

1.18 No Sale or Lease. It is hereby expressly agreed by Grantor that Grantor shall not sell, lease (except to Occupants) or otherwise encumber or transfer the Trust Property without the express written consent of an authorized officer of the Department. If the Department is willing to give its express written consent to a transfer, such consent may be conditioned upon payment to the Department by the Grantor of an administrative fee not to exceed 3% (three percent) of the original Note principal amount, which fee shall constitute additional Obligations hereunder.

The foregoing shall not apply to (i) transfers of Grantor's investor member interest to an affiliate of the Investor Member of Grantor, and (ii) transfers of Grantor's managing membership interest to an affiliate of the Investor Member of Grantor pursuant to Article VII of the approved Operating Agreement of Grantor.

1.19 Actions to Protect Trust Property.

(1) If the Trust Property is sold under foreclosure or is otherwise acquired by the Department after default, any remaining balance of the accumulations under Section 1.16 hereof shall be applied in reduction of the Obligations as of the date that the Trust Property is sold or is acquired.

(2) Any funds accumulated under Section 1.16 hereof remaining after payment of the items therein specified shall be credited against subsequent payments due on the Note or, of the same items required thereunder.

(3) If Grantor shall fail to obtain the insurance required by Section 1.12, fail to make the payments required by Section 1.09 (other than payments that Grantor is contesting in accordance with Section 1.09(2)), or fail to perform or observe any of its other covenants or agreements under this Trust Deed, the Department may in addition to all other remedies, without obligation to do so, obtain or pay the same or take other action that it deems appropriate to remedy or to investigate such failure. The Department, without limitation, is hereby entitled to obtain such insurance as the Department deems necessary for the protection of the Trust Property and the Grantor shall be obligated to pay the premium therefor. The Grantor irrevocably authorizes and empowers the Department to enter upon the Trust Property as the Grantor's agent and, in the Grantor's name or otherwise, to perform any and all covenants and agreements to be performed by the Grantor as herein provided. The Department shall, at its option, be subrogated to any encumbrance, lien, claim or demand, and to all the rights and securities for the payment thereof, paid or discharged with the principal sum secured hereby or by the Department under the provisions hereof, and any such subrogation rights shall be additional and cumulative security for this Trust Deed. Nothing contained in this paragraph shall require the Department to incur any expense or do any action hereunder, and the Department shall not be liable to the Grantor for any damages or claims arising out of action taken by the Department pursuant to this Section. All sums, including reasonable attorney fees, so expended or expended to maintain the lien or estate of this Trust Deed or its priority, or to protect or enforce any of the Department's rights, or to recover any indebtedness secured by this Trust Deed, shall be a lien on the Trust Property, shall (together with interest thereon at the rate provided in the Note) constitute Obligations, shall be secured by this Trust Deed, and shall be paid by Grantor upon demand.

(4) Upon a default, the Department will have the right to complete any construction, repair or replacement of the Trust Property and to operate and lease the Trust Property.

1.20 Estoppel Certificates. Grantor, within five days of the request, shall furnish Trustee and the Department with a written statement, duly acknowledged, of the amount of the Obligations secured by this Trust Deed and whether any offsets or defenses exist against such Obligations. Trustee and the Department shall limit requests for such written statements to not more than once annually without good cause for a more frequent request. If Grantor shall fail to furnish such a statement within the time allowed, the Department shall be authorized, as Grantor's attorney-in-fact, to execute and deliver such statement. Upon request, Grantor also shall use its best efforts to obtain and deliver to the Department a written certificate from each lessee of all or any portion of the Property that its lease is in effect, that there are no defaults by the lessor under the lease, and that rent is not paid more than 30 days in advance. Grantor may satisfy this best effort requirement by mailing said certificates to all lessees with return postage prepaid.

1.21 Financial Information. Grantor shall promptly furnish to the Department any and all such financial information relating to Grantor or the Project as the Department shall reasonably request from time to time.

ARTICLE II - Condemnation

2.01 Condemnation.

(1) Should any part of or interest in the Trust Property be taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any similar manner (a "Condemnation"), or should Grantor receive any notice or other information regarding such action, Grantor shall give immediate notice of such action to the Department.

(2) Grantor hereby irrevocably assigns to the Department, and the Department shall be entitled to, all compensation, awards, and other payments or relief ("Condemnation Proceeds") up to the full amount of the Obligations.

(3) Grantor shall file and prosecute in good faith and with due diligence what otherwise would be its claim in any condemnation award or payment and will cause the same to be collected and paid over to the Department. However, the Department shall be entitled, at its option, to commence, appear in, and prosecute any Condemnation proceeding in its own or Grantor's name and make any compromise or settlement in connection with such Condemnation or by reasons of sale under threat thereof, or in anticipation of the exercise of the right of Condemnation. In the event the Trust Property is taken in its entirety by condemnation, all Obligations secured by this Trust Deed, at the Department's election, shall become immediately due and collectible. The Department will make reasonable efforts to consult with Grantor prior to any prosecution of a claim under this Section.

(4) The Department may, at its sole option, apply the Condemnation Proceeds to the reduction of any outstanding Obligations, including reasonable costs expenses, including attorneys' fees, which may have been incurred by the Department in the collection thereof, as well as in such order as the Department may determine, apply all or any portion of the Condemnation Proceeds to the cost of restoring and improving the remaining Trust Property. In the event that the Department elects to apply any of the Condemnation Proceeds to restoration and improvement, the proceeds shall be held by the Department and shall be released only upon such terms and conditions as the Department shall require in its sole discretion, including but not limited to prior approval of plans and release of liens. No Condemnation Proceeds shall be released if Grantor is in default under this Trust Deed.

(5) The Department, at its sole discretion, may tender such insurance proceeds, less any legal costs, fees or other expenses incurred by the Department, to Grantor to pay for the restoration of the Trust Property, provided that such restoration, in the Department's sole discretion, is economically and legally feasible. Any such tender of condemnation proceeds by Department or the application of same by Grantor for restoration of the Trust Property shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such default or notice.

(6) In the event of a partial condemnation, the Department will not unreasonably withhold its consent to permit proceeds of the condemnation to be used to rebuild or repair the Project if Grantor obtains the consent of the construction lender or term lender to use the proceeds to rebuild or repair pursuant to the terms of the construction loan documents or term loan documents as the case might be.

ARTICLE III - Assignment of Leases, Rents, Issues, and Profits

3.01 Assignment. Grantor assigns and transfers to the Department (1) all leases, subleases, licenses, rental contracts, and other agreements, whether now existing or hereafter arising, and relating to the occupancy or use of all or any portion of the Trust Property, including without limitation all modifications, extensions, and renewals thereof (the "Leases"), and (2) all rents, revenues, issues, profits, income, proceeds, and benefits now or hereafter derived from the Trust Property and the lease, rental, or license of all or any portion thereof, including but not limited to lease and security deposits (collectively, the "Rents"). This assignment is intended by Grantor and the Department to create a present and unconditional assignment to the Department, subject only to the license set forth in Section 3.04 below and to the assignment to the construction lender under the construction loan documents and to the term lender under the term loan documents.

3.02 Rights of the Department. Subject to the provisions of Section 3.04 below giving Grantor a revocable, limited license, the Department shall have the right, power, and authority to:

(1) Notify any and all tenants, renters, licensees, and other obligors under any of the Leases that the same have been assigned to the Department and that all Rents are to be paid directly to the Department, whether or not the Department shall have foreclosed or commenced foreclosure proceedings against the Trust Property, and whether or not the Department has taken possession of the Trust Property and whether or not a receiver has been appointed;

(2) Discount, settle, compromise, release, or extend the time for payment of, any amounts owing under any of the Leases and any Rents, in whole or in part, on terms acceptable to the Department;

(3) Collect and enforce payment of Rents and all provisions of the Leases, and to prosecute any action or proceeding, in the name of Grantor or the Department, with respect to any and all Leases and Rents; and

(4) Exercise any and all other rights and remedies of the lessor in connection with any of the Leases and Rents.

3.03 Application of Receipts. The Department shall have the right, power, and authority to use and apply any Rents received under this Trust Deed (1) for the payment of any and all costs and expenses incurred in connection with enforcing or defending the terms of this assignment or the rights of the Department, and in collecting any Rents; and (2) for the operation and maintenance of the Trust Property and the payment of all costs and expenses in connection therewith, including but not limited to the payment of utilities, taxes, assessments, governmental charges, insurance and reserves. After the payment of all such costs and expenses, and after the Department shall have set up such additional reserves as it shall deem necessary in its sole discretion for the proper management of the Trust Property, the Department shall apply all remaining Rents collected and received by it to the reduction of the Obligations in such order as the Department shall determine. The exercise or failure by the Department to exercise any of the rights or powers granted in this assignment shall not constitute a waiver of default by Grantor under this Trust Deed, the Note, or any of the other Loan Documents.

3.04 License. The Department hereby grants to Grantor a revocable license to collect and receive the Rents. Such license may be revoked by the Department, without notice to Grantor, upon the occurrence of any event of default under this Trust Deed, including any default by Grantor of its covenants in this Article. Unless and until such license is revoked, Grantor agrees to apply the proceeds of Rents to the payment of the Obligations and to the payment of taxes, assessments, governmental charges, insurance premiums, reserves, and other obligations in connection with the Trust Property, and to the maintenance of the Trust Property, before using such proceeds for any other purpose. Grantor agrees to (1) observe and perform every obligation of Grantor under the Leases; (2) enforce or secure at its expense the performance of every obligation to be performed by any lessee or other party under the Leases; (3) appear in and defend, at Grantor's sole cost and expense, any action or proceeding arising out of or in connection with the Leases or the Rents.

3.05 Limitation of the Department's Obligations. Notwithstanding the assignment provided for in this Article, the Department shall not be obligated to perform or discharge, and the Department does not undertake to perform or discharge, any obligation or liability with respect to the Leases or the Rents. This assignment shall not operate to place responsibility for the control, care, maintenance, or repair of the Trust Property upon the Department, or to make the Department responsible for any condition of the Project. The Department shall be accountable to Grantor only for the sums actually collected and received by the Department pursuant to this assignment. Grantor shall (consistent with ORS Chapter 180) hold the Department fully harmless from, indemnify the Department for, and defend the Department against any and all claims, demands, liabilities, losses, damages, and expenses, including, without limitation attorney fees, arising out of any of the Leases, with respect to any of the Rents, or in connection with any claim that may be asserted against the Department on account of this assignment or any obligation or undertaking alleged to arise therefrom.

- 3.06 Termination. The assignment provided for in this Article shall continue in full force and effect until all the Obligations have been fully paid and satisfied. At such time, this assignment and the authority and powers herein granted by Grantor to the Department shall cease and terminate.
- 3.07 Attorney-in-Fact. Grantor irrevocably constitutes and appoints the Department, and each of its officers, successors and assigns as its true and lawfully attorney-in-fact, with power of substitution, to undertake and execute any and all of the rights, powers, and authorities described in this Article with the same force and effect as if undertaken or performed by Grantor, and Grantor ratifies and confirms any and all such actions that may be taken or omitted to be taken by the Department, its employees, agents, and attorneys.

ARTICLE IV - Security Agreement and Fixture Filing

To secure the Obligations, Grantor grants to the Department a security interest in the following: (1) the Trust Property to the extent the same is not encumbered by this Trust Deed as a first priority real estate lien; (2) all personal property that is used or will be used in the construction of any improvements on the Trust Property; (3) all personal property that is now or will hereafter be placed on or in the Trust Property or improvements; (4) all personal property that is derived from or used in connection with the use, occupancy, or enjoyment of the Trust Property; (5) all property defined in the Uniform Commercial Code as adopted in the state of Oregon, as accounts, equipment, fixtures, and general intangibles, to the extent the same are used at, or arise in connection with the ownership, maintenance, or operation of, the Trust Property; (6) all causes of action, claims, security deposits, advance rental payments, utility deposits, refunds of fees or deposits paid to any governmental authority, refunds of taxes, and refunds of insurance premiums relating to the Trust Property; and (7) all present and future attachments, accessions, amendments, replacements, additions, products, and proceeds of every nature of the foregoing. This Trust Deed shall constitute a security agreement and "fixture filing" under the Uniform Commercial Code-Secured Transactions statutes of the State of Oregon. The mailing address of Grantor and the address of the Department from which information may be obtained are set forth in the introductory paragraph of this Trust Deed. The Grantor will from time to time, at the request of the Department, execute any and all financing statements covering such personal property and fixtures (in a form satisfactory to the Department) which the Department may reasonably consider necessary or appropriate to perfect its interest. The Grantor will pay to the Department, on demand, the amount of any and all costs and expenses (including reasonable attorneys' fees and legal expenses whether or not an action is filed; preliminary to and at trial, and on appeal) paid or incurred by the Department in connection with the exercise of any right or remedy referred to in Article VI hereof.

ARTICLE V - No Discrimination; Reamortization

- 5.01 No Discrimination. So long as this Trust Deed and the Note secured hereby are held by the Department, Grantor will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the Property on the basis of race, creed, color, religion, sex, marital status, financial status, national origin, age or status with regard to public assistance or disability or local residency, except as provided by law and allowed in the Loan Documents in order to effect the purposes of ORS chapter 458.
- 5.02 Reamortization. At the option of the Department, the payment Obligations may be reamortized within the original term of the Loan on terms acceptable to the Department if: (i) a partial prepayment results from an award in condemnation in accordance with provisions of Section 2.01 hereof, or from an insurance payment made in accordance with provisions of Section 1.12 hereof, and (ii) there is a resulting loss of income from the Trust Property.

ARTICLE VI - Events of Default; Remedies

- 6.01 Events of Default. Each of the following shall constitute an event of default ("Event of Default") under this Trust Deed and under each of the other Loan Documents:

- (1) Nonpayment. Failure of Borrower or Grantor to pay any of their respective Indebtedness by the due date.
- (2) Failure of Insurance. A responsible title insurance company fails duly to issue a policy of title insurance to or for the benefit of the Department, free from exceptions for mechanics' and material persons' liens and other exceptions not previously approved by the Department, insuring this Trust Deed to be a valid lien (subject only to those exceptions, if any, indicated in the Title Insurance Policy accepted by the Department) on the Property and related real property interests and the Trust Property in an amount not less than the stated principal amount of the Note; or, if issued, any such policy or commitment is repudiated or revoked or is not being duly performed.
- (3) Breach of Warranty of Title. Any warranty of title made by the Grantor in this Trust Deed is breached.
- (4) Breach of Other Covenants. Failure of Grantor or Borrower to perform other Obligations when due.
- (5) Misinformation. Falsity when made in any material respect of any representation, omission, warranty, or information furnished by Grantor or its agents to the Department in or in connection with any of the Obligations.
- (6) Other Default. The occurrence of any other event of default under the Note or under any of the other Loan Documents.
- (7) Other Indebtedness, Secondary Financing. Grantor's or Borrower's default beyond the applicable grace periods in the payment of any other indebtedness owed by Grantor to any person, if such indebtedness is secured by all or any portion of the Trust Property.
- (8) Bankruptcy. The occurrence of any of the following with respect to Grantor or Borrower, any guarantor of the Obligations, or the then-owner of the Trust Property: (a) appointment of a receiver, liquidator, or trustee for any such party or any of its properties not dismissed with 60 days after appointment; (b) adjudication as a bankrupt or insolvent; (c) filing of any petition by any such party under any state or federal bankruptcy, reorganization, moratorium or insolvency law; (d) filing of any petition against such party under state or federal bankruptcy, reorganization, moratorium or insolvency law not dismissed within 60 days after filing; (e) institution of any proceeding for dissolution or liquidation not dismissed within 60 days after institution thereof; (f) inability to pay debts when due; (g) any general assignment for the benefit of creditors; or (h) abandonment of the Trust Property.
- (9) Transfer; Due-on-Sale; Due-on-Encumbrance. Any sale, gift, conveyance, contract for conveyance, transfer, assignment, encumbrance, pledge, or grant of a security interest in all or any part of the Trust Property, or any interest therein, either voluntarily, involuntarily, or by the operation of law other than the transfer of a limited partner or limited member in interest in Grantor (a "Transfer"), without the Department's prior written consent, shall constitute an event of default. For the purpose of clarification, and without limiting the generality of the foregoing, the occurrence at any time of any sale, conveyance, assignment, or other transfer of, or the grant of a pledge of or security interest in, any shares of the capital stock of Grantor or change in the ownership of the Grantor shall be deemed to be a Transfer in violation of this paragraph. The provisions of this subsection (9) shall apply to each and every Transfer, regardless of whether or not the Department has consented or waived its rights in connection with any previous Transfer. The Department may attach such conditions to its consent under this subsection (9) as the Department may determine in its sole discretion, including without limitation an increase in the interest rate or the payment of transfer or assumption fees, and the payment of administrative and reasonable legal fees and costs incurred by the Department.

The term sale, assignment or transfer shall not include (a) the sale of the Trust Property, or sale of the interests of the limited partners of the Grantor (or the investment members of the Grantor as applicable), after the end of the "compliance Period" for the project as such term as defined under Section 42 of the Internal Revenue Code, to the general partner of Grantor (or managing member of Grantor as applicable) or (b) the admission of an investor limited partner of Grantor or a transfer or assignment of all or part of the interest of an investor limited partner of Grantor (or investor member of Grantor as applicable) to an affiliate of such investor, so long as in the case of either (a) or (b) Grantor is not in default under this Trust Deed, (c) transfers of Grantor's investor member interest to an affiliate of the Investor Member of Grantor, (d) transfers of Grantor's managing membership interest to an affiliate of the Investor Member of Grantor pursuant to Article VII of the approved Operating Agreement of Grantor, and (e) the grant by Grantor's managing member of a security interest in Borrower to Grantor's Investor Member pursuant to that certain Pledge and Security Agreement (Managing Member) executed on or about the date hereof by Borrower's Managing Member for the benefit of Borrower's Investor Member.

(10) Certain Taxes. For purposes of this subsection (10), State Tax shall mean:

- (a) A specific tax on mortgages, trust deeds, secured indebtedness, or any part of the Obligations secured by this Trust Deed.
- (b) A specific tax on the grantor of property subject to a trust deed that the taxpayer is authorized or required to deduct from payments on the trust deed.
- (c) A tax on property chargeable against the Department or Trustee under a trust deed or holder of the note secured by the trust deed.
- (d) A specific tax (other than an income tax or a gross receipts tax) on all or any portion of the Obligations or on payments of principal and interest made by Grantor.

If any State Tax is enacted after the date of this Trust Deed applicable to this Trust Deed, enactment of the State Tax shall constitute an event of default, unless the following conditions are met:

- (a) Grantor may lawfully pay the tax or charge imposed by the State Tax without causing any resulting economic disadvantage or increase of tax to the Department or Trustee, and
- (b) Grantor pays or agrees in writing to pay the tax or charge within 30 days after notice from the Department or Trustee that the State Tax has been enacted.

(11) Notwithstanding any other provision of this Section 6.01, if an Event of Default under Section 6.01 should occur (except for the failure to make timely payment of principal and interest under the terms of the Loan Documents for which no notice is required to declare default), prior to invoking any remedies under Section 6 the Beneficiary shall give Grantor and Grantor's Investor Member notice and 30 days to cure the deficiency if such deficiency is curable within such time period unless the Beneficiary specifies a shorter period to cure in its notice. In addition, if the deficiency is curable, but not curable within the 30-day or less period, the Beneficiary shall not declare a default if Grantor or Grantor's Investor member commences to cure within such period and in the sole discretion of the Beneficiary, diligently pursues a cure to completion.

6.02 Remedies in Case of Default. If an Event of Default shall occur, the Department may, without notice (with respect to a payment Event of Default) or upon 30 days notice and an opportunity to cure, exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or pursuant to the Loan Documents or otherwise:

- (1) Acceleration. The Department may declare all or any portion of the Obligations immediately due and payable.

(2) Receiver. The Department may have a receiver appointed for the Trust Property. The Department shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Trust Property exceeds the amount of the indebtedness secured by this Trust Deed. Employment by Trustee or the Department shall not disqualify a person from serving as receiver. Grantor consents to the appointment of a receiver at the Department's option and waives any and all defenses to such an appointment.

(3) Possession. The Department may, either through a receiver or as lender-in-possession, enter and take possession of all or any part of the Trust Property and use, operate, manage, and control it as the Department shall deem appropriate in its sole discretion. Upon request after an Event of Default, Grantor shall peacefully relinquish possession and control of the Trust Property to the Department or any receiver appointed under this Trust Deed. Any receiver acting pursuant to this subsection may serve without bond to the extent permitted by law.

(4) Rents. The Department may revoke Grantor's right to collect the Rents, and may, either itself or through a receiver, collect the same. The Department shall not be deemed to be in possession of the Property solely by reason of exercise of the rights contained in this subsection. If Rents are collected by the Department under this subsection, Grantor hereby irrevocably appoints the Department, its successors and assigns, as Grantor's attorney-in-fact, with power of substitution, to endorse instruments received in payment thereof in the name of Grantor and to negotiate such instruments and collect their proceeds. After payment of all Obligations, any remaining amounts shall be paid to Grantor and this power shall terminate.

(5) Power of Sale. The Department may direct Trustee, and Trustee shall be empowered, to foreclose the Trust Property by advertisement and sale under applicable law.

(6) Foreclosure. The Department may judicially foreclose the security interests granted in this Trust Deed and obtain a judgment foreclosing Grantor's interest in and to any part of the Trust Property and giving the Department the right, to the extent permitted by law and to collect any deficiency remaining due after disposition of the Trust Property.

(7) Fixtures and Personal Property. With respect to any Improvements and other personal property subject to a security interest in favor of the Department, the Department may exercise any and all of the rights and remedies of a secured party under the Uniform Commercial Code.

(8) Abandonment. The Department may abandon all or any portion of the Trust Property by written notice to Grantor.

6.03 Sale. In any sale under this Trust Deed or pursuant to any judgment, the Trust Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in such order as the Department may elect, without regard to the right of Grantor, any person claiming under Grantor, or any guarantor or surety to the marshalling of assets. The purchaser at any such sale shall take title to the Trust Property or the part thereof so sold, free and clear of the estate of Grantor, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including the Department, its officers, agents, and employees, may purchase at any such sale. The Department and each of its officers, successors and assigns are irrevocably appointed Grantor's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Trust Property or any portions thereof so sold and, for that purpose, the Department and its officers may execute all appropriate instruments of transfer. Nevertheless, Grantor shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to the Department or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of the Department, for such purpose.

- 6.04 Cumulative Remedies. All remedies under this Trust Deed are cumulative and not exclusive. Any election to pursue one remedy shall not preclude the exercise of any other remedy. An election by the Department to cure under Section 1.20 or otherwise shall not constitute a waiver of the default or of any of the remedies provided in this Trust Deed. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of the default.
- 6.05 Receiver or Trustee-in-Possession. Upon taking possession of all or any part of the Trust Property, Trustee, the Department, or a receiver may:
- (1) Management. Use, operate, manage, control, and conduct business with the Trust Property and make expenditures for such purposes and for such maintenance and improvements as are deemed reasonably necessary.
 - (2) Rents and Revenues. Collect all rents, revenues, income, issues, and profits from the Trust Property and apply such sums to the reasonable expenses of use, operation, management, maintenance, and improvements.
 - (3) Construction. At its option, complete any construction or rehabilitation in progress on the Trust Property, and in that connection pay bills, borrow funds, employ contractors, and make any changes in plans and specifications as it deems appropriate.
 - (4) Additional Indebtedness. If the revenues produced by the Trust Property are insufficient to pay expenses, the Department, Trustee, or the receiver may borrow or advance such sums upon such terms as it deems reasonably necessary for the purposes stated in this Section. All advances shall bear interest, unless otherwise provided, at the rate set forth in the Note, shall constitute Obligations hereunder and repayment of such sums shall be secured by this Trust Deed.
- 6.06 Application of Proceeds. All proceeds realized from the exercise of the rights and remedies under this Article shall be applied as follows:
- (1) Costs and Expenses. To pay all costs of exercising such rights and remedies, including the costs of maintaining and preserving the Trust Property, the costs and expenses of any receiver or lender-in-possession, the costs of any sale, and the costs and expenses provided for in Section 7.07 below.
 - (2) Indebtedness. To pay all Obligations, in such order as the Department shall determine in its sole discretion.
 - (3) Surplus. The surplus, if any, remaining after satisfaction of all the Obligations shall be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons with liens recorded with the county regarding real property and to the person or persons with liens properly recorded with the appropriate Secretary of State regarding personal property, with any remainder to the Grantor.
- 6.07 Deficiency. No sale or other disposition of all or any part of the Trust Property pursuant to this Article shall be deemed to relieve Borrower of any of the Obligations, except to the extent that the proceeds are applied to the payment of such Obligations. If the proceeds of a sale, a collection, or other realization of or upon the Trust Property are insufficient to cover the costs and expenses of such realization and the payment in full of the Obligations, Borrower, and any assignees or successors shall remain liable for any deficiency to the fullest extent permitted by law.
- 6.08 Waiver of Stay, Extension, Moratorium, and Valuation Laws. To the fullest extent permitted by law, Grantor waives the benefit of any existing or future stay, extension, or moratorium law that may affect

observance or performance of the provisions of this Trust Deed and any existing or future law providing for the valuation or appraisal of the Trust Property prior to any sale.

- 6.09 Forbearance Not a Waiver; Rights and Remedies Cumulative. Any delay by the Department in exercising any right or remedy provided herein or otherwise afforded by law or equity shall not be a waiver of or preclude the exercise of such right or remedy. All such rights and remedies shall be distinct and cumulative and may be exercised singly, serially (in any order) or concurrently, and as often as the occasion therefor arises. The Department's taking action or receiving proceeds, awards or damages under terms of this Trust Deed shall not impair any right or remedy available to the Department under any of the provisions of this Trust Deed.

ARTICLE VII - General Provisions

- 7.01 Time is of the Essence. Time is of the essence with respect to all covenants and obligations under this Trust Deed.
- 7.02 Reconveyance by Trustee. At any time upon the request of the Department, payment of Trustee's fees, if any, and presentation of this Trust Deed, without affecting liability of any persons for the payment of the Obligations, Trustee may reconvey, without warranty, all or any part of the Trust Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness thereof.
- 7.03 Notice. Except as otherwise provided in this Trust Deed, all notices pertaining to this Trust Deed shall be in writing and may be delivered by telephonic facsimile (FAX), by hand, or mailed by first class, registered, or certified mail, return-receipt-requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Trust Deed. Any party may change its address or FAX number for such notices from time to time upon 30 days written notice to the other parties. Notices given by mail in accordance with this paragraph shall be deemed to have been given upon the third day after the date of mailing; notices given by FAX or by hand shall be deemed to have been given when actually received.
- 7.04 Substitution of Trustee. In the event of dissolution or resignation of the Trustee or at the discretion of the Department, the Department may substitute one or more trustees to execute the trust hereby created, and the new Trustee(s) shall succeed to all of the powers and duties of the prior Trustee. When any such substitution has been filed for record in the office of the County Clerk of the County in which the Property herein described is situated, it shall be conclusive evidence of the appointment of such trustee or trustees.
- 7.05 Trust Deed Binding on Successors and Assigns. This Trust Deed shall be binding upon and inure to the benefit of the successors and assigns of Grantor, Trustee, and the Department. If the Trust Property or any portion thereof shall at any time be vested in any person other than Grantor, the Department shall have the right to deal with such successor regarding this Trust Deed, the Trust Property, and the Obligations in such manner as the Department deems appropriate in its sole discretion, without notice to or approval by Grantor and without impairing Grantor's liability for the Obligations.
- 7.06 Indemnity. Grantor shall (consistent with ORS Chapter 180) hold the Department and Trustee and their respective directors, officers, employees, agents, and attorneys, successors and assigns, harmless from and shall indemnify them for and defend them from any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with Trustee's or the Department's interest under this Trust Deed, except Grantor shall not be liable for acts performed by the Department or Trustee in violation of applicable law or the Loan Documents.

- 7.07 Expenses and Attorney Fees. If the Department refers any of the Obligations to an attorney for collection or enforcement or seeks legal advice following a default; if the Department is the prevailing party in a substantial manner in any litigation instituted in connection with any of the Obligations; or if the Department or any other person initiates any judicial or nonjudicial action, suit, or proceeding in connection with any of the Obligations or the Trust Property (including but not limited to proceedings under federal bankruptcy law, eminent domain, under probate proceedings, under arbitration, or in connection with any state or federal tax lien), and an attorney is employed by the Department to (1) appear in any such action, suit, or proceeding, or (2) reclaim, seek relief from a judicial or statutory stay, sequester, protect, preserve, or enforce the Department's interests, then in any such event Grantor shall pay reasonable attorney fees, costs, and expenses incurred by the Department or its attorney(s) in connection with the above-mentioned events or any appeals or arbitrations related to such events, including but not limited to costs incurred in searching records, the cost of title reports, and the cost of surveyors' reports. Such amounts shall be secured by this Trust Deed and, if not paid upon demand, shall bear interest at the rate specified in the Note.
- 7.08 Applicable Law; Venue. The Trust Deed and the validity, interpretation, performance, and enforcement of the Trust Deed and the other Loan Documents shall be governed by the laws of the state of Oregon without regard for principles of conflicts of law. Furthermore, the parties hereby agree that any suit or proceeding relating to or arising from this Trust Deed or the other Loan Documents shall be brought and maintained exclusively in the Circuit Courts of the State of Oregon, or if necessary, in the U. S. District Court for the District of Oregon. Grantor specifically hereby submits itself to the IN PERSONUM jurisdiction of such courts. Beneficiary specifically reserves its sovereign immunity rights and privileges.
- 7.09 Captions. The captions to the sections and paragraphs of this Trust Deed are included only for the convenience of the parties and shall not have the effect of defining, diminishing, or enlarging the rights of the parties or affecting the construction or interpretation of any portion of this Trust Deed.
- 7.10 "Person" Defined. As used in this Trust Deed, the word "person" shall mean any natural person, partnership, trust, corporation, or other legal entity of any nature.
- 7.11 Severability and Controlling Language. If any provision of this Trust Deed shall be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Trust Deed, and such other provisions shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Trust Deed. The Department may declare all or any portion of the Obligations immediately due and payable (i) if the Grantor brings any proceeding to challenge the validity, legality or enforceability of any provision of this Trust Deed or of any of the other Loan Documents, or (ii) if any provision of this Trust Deed or of any of the other Loan Documents otherwise is determined to be invalid, illegal or unenforceable. To the extent, if any that the terms in this Trust Deed directly conflict with the terms in any of the other Loan Documents, the terms in this Trust Deed shall control.
- 7.12 Entire Agreement. This Trust Deed and the other Loan Documents contain the entire agreement of the parties with respect to the Trust Property. No prior agreement, statement, or promise made by any party to this Trust Deed that is not contained herein shall be binding or valid.
- 7.13 Commercial Property. Grantor covenants and warrants that the Property and improvements of the Project are used by Grantor exclusively for business and commercial purposes. Grantor also covenants and warrants that the Trust Property is not now, and at no time in the future will be, occupied as the principal residence of Grantor, Grantor's spouse, or Grantor's minor or dependent child.
- 7.14 Miscellaneous Rights of the Department. The Department may at any time and from time to time, without notice, release any person liable for the payment of any Obligations; extend the time or agree to alter the terms of payment of any Obligations; release any property securing any Obligations; consent to

the making of any plat or map of the Trust Property or the creation of any easement thereon or any covenants restricting use or occupancy thereof; appoint a successor Trustee without limitation as to the reason for appointing such a successor Trustee; or agree to alter or amend the terms of this Trust Deed or other Loan Documents in any way, all without in any way affecting the liability of any persons (other than the person so released) or the validity or priority of this Trust Deed (except as it covers property so released). Any personal property remaining upon the Trust Property, after the Trust Property has been possessed or occupied by the Department or its agent following foreclosure of this Trust Deed, or under any deed in lieu of foreclosure, shall be conclusively presumed to have been abandoned by the Grantor, and the Grantor covenants that Grantor will upon written request of the Department execute a warranty bill of sale transferring title to such personal property to the Department.

- 7.15 Other Debt. Obligations, as defined herein also includes, all other advances heretofore or at any time hereafter made to the Grantor by the Department respecting the Trust Property and all other indebtedness of every type and description now or hereafter owed under the Trust Deed by the Grantor, unless (in case of any such advance or indebtedness) the Department has otherwise agreed in writing. The Department shall not be obligated to make any such advance or to permit or to suffer the creation of any such indebtedness.
- 7.16 Cross Default. Events of Default hereunder also shall constitute Events of Default under the other Loan Documents. Events of Default under the other Loan Documents also shall constitute Events of Default hereunder.
- 7.17. Exculpation. The covenant of any limited liability company or limited partnership Grantor to pay principal and interest is included in the Note secured hereby for the purpose of establishing and continuing the existence of the Indebtedness; it is a condition of said covenant that in the event of default under the terms hereof or any other Loan Document, the Department, in the absence of fraud, will take no action against said limited liability company or limited partnership Grantor or any member thereof personally (in the absence of a personal guaranty) except such as necessary to subject the Trust Property to the satisfaction of the Indebtedness and to enforce the Obligations herein with respect to the Trust Property; provided that nothing in said condition and no action so taken shall operate to impair an obligation of the Grantor under the Assistance Agreement or Regulatory Agreement not including the repayment of the Loan principal or interest. More particularly, the Department warrants that, in the absence of fraud, it will not seek a deficiency judgment against any appropriate limited liability company or limited partnership Grantor or any member thereof personally (in the absence of a personal guaranty) following a foreclosure and sale of the completed development, provided however that the Department has acknowledged, in writing, satisfactory completion of acceptance of the development.
- 7.18 Interest After Judgment.

If this Trust Deed is foreclosed, any judgment or decree will bear interest on the unpaid balance at the rate: (1) that the law permits for interest on judgments; or (2) that is specified in the Note, whichever of these is greater.

STATUTORY NOTICE: UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY THE LENDER CONCERNING LOANS AND OTHER CREDIT EXTENSIONS, WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY THE LENDER TO BE ENFORCEABLE.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Trust Deed and in any rider(s) executed by Borrower and recorded with it.

BORROWER:

Sky Meadows, LLC,
an Oregon limited liability company
TIN No.: 61-1798990

By: LDA-Sky Meadows Development LLC
an Oregon limited liability company
its manager

By: Luckenbill-Drayton & Associates, LLC
an Oregon limited liability company
its manager

By: Lisa M. Drayton
Lisa M. Drayton, Manager

STATE OF OREGON)

County of Deschutes : ss

The foregoing instrument was acknowledged before me this 26 day of Sept., 2017, by Lisa M. Drayton, manager of Luckenbill-Drayton & Associates, LLC, Manager of LDA-Sky Meadows Development LLC an Oregon limited liability company, its manager of Sky Meadows, LLC an Oregon limited liability company, who executed the foregoing instrument for on behalf of the Borrower.



Joyce Jones
NOTARY PUBLIC FOR OREGON
My Commission Expires: 04-10-2020

EXHIBIT A

Real property in the County of Klamath, State of Oregon, described as follows:

Parcel 1 of Land Partition 2-17 Replat of Parcel 2 of Land Partition 8-00, situated in SE1/4 NE1/4 Section 14, Township 39 South, Range 09 East of the Willamette Meridian, Klamath County, Oregon and recorded May 8, 2017 as Instrument No. 2017-004773, Klamath County Records.