

**Free Recording Requested Pursuant to
Government Code Section 27383**

When recorded, mail to:
Mayor's Office of Housing and Community
Development
City and County of San Francisco
1 South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn.: CSLP

Loan No.:
APN: **Block: Lot:**
Escrow No.:
Property Address: **San Francisco, CA**

Space above This Line for Recorder's Use

**DEED OF TRUST AND ASSIGNMENT OF RENTS
CITY SECOND LOAN PROGRAM (CSLP)
Funding Source:**

THIS DEED OF TRUST AND ASSIGNMENT OF RENTS ("Deed of Trust") is made as of _____ by _____ ("Borrower" or "Trustor") to **Name of Title Company** ("Trustee") for the benefit of the City and County of San Francisco, a municipal corporation, whose address is c/o Mayor's Office of Housing and Community Development, 1 South Van Ness Avenue, 5th Floor, San Francisco, California 94103 ("Lender" or "Beneficiary"). This Deed of Trust is being made in accordance with the Lender's Downpayment Assistance Loan Program, City Second Loan Program (CSLP) as described in the Downpayment Assistance Loan Program Manual ("DALP Manual").

Borrower owes Lender the principal sum of _____ **Dollars (\$XXX,XXX)** (the "City Loan"). The City Loan is evidenced by Borrower's note ("Note") dated the same date as this Deed of Trust and executed by Borrower. Capitalized terms used in this Deed of Trust and not defined shall have the meanings set forth in the Note. The Note provides for payment of the principal amount of the Note, together with a Share of Appreciation in the value of the Property (as provided in the Note) on the Maturity Date.

In addition to the City Loan, the Borrower obtained a secured loan of \$ _____ (the "First Deed of Trust Loan") from _____ (the "Senior Lender"), which loan is secured by a first deed of trust lien on the Property (the "First Deed of Trust"). The documents evidencing or securing the First Deed of Trust Loan are collectively referred to herein as the First Deed of Trust Loan Documents.

This Deed of Trust secures to Lender: (a) the repayment of the City Loan evidenced by the Note, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest as provided in the Note, advanced under Section 8 of this Deed of Trust to protect the security of this Deed of Trust; (c) payment of all other sums advanced by Lender to Borrower when evidenced by an instrument stating that those sums are secured by this Deed of Trust; and (d) the performance of Borrower's covenants and agreements under this Deed of Trust and Note.

1. **Grant in Trust.** For valuable consideration, Borrower irrevocably grants and transfers and assigns to Trustee, in trust, with power of sale, subject to the rights of the Senior Lender under the First Deed of Trust, the real property located in San Francisco County, California, which has the address _____, **San Francisco, CA** and is further described in Exhibit A attached hereto;

TOGETHER WITH all the improvements now or hereafter erected on the property; all easements,

appurtenances, and fixtures now or hereafter a part of the property; all replacements of and additions to the Property; and all rents, issues and profits from the property, subject to Trustor's right to collect and retain the same as they become due and payable so long as there is no existing default hereunder. All of the foregoing is referred to in this Deed of Trust as the "Property."

2. **Title.** Borrower covenants that Borrower holds fee title to the Property and has the right to grant and convey the Property and, except for the First Deed of Trust and other encumbrances of record acceptable to the Senior Lender and the Lender, the Property is unencumbered. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to such encumbrances of record.

3. **Payment of Principal and Shared Appreciation; Prepayment and Late Charges.** Borrower shall promptly pay when due all amounts evidenced by the Note. Borrower shall have the right, without any prepayment charge, to prepay the principal amount of the Note, together with the Share of Appreciation, as defined in the Note, provided that such prepayment is in full and not in part.

4. **Prior Deeds of Trust; Charges; Liens.**

a. The Borrower shall perform all of the Borrower's obligations under the First Deed of Trust, including Borrower's covenants to make payments when due. Borrower shall pay all taxes, assessments, charges, fines and impositions attributable to the Property, and leasehold payments or ground rents, if any. Borrower shall pay these obligations directly and on time to the person or entity owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments.

b. Except for the lien of the First Deed of Trust, Borrower shall promptly discharge any other lien which may encumber title to the Property unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which, in the Lender's sole discretion, operate to prevent the enforcement of the lien; or (c) obtains from the Lender an agreement satisfactory to Lender subordinating the lien to this Deed of Trust. Except for the lien of the First Deed of Trust, if Lender determines that any part of the Property is subject to a lien which may encumber title to the Property without Lender's prior written consent, Lender may give Borrower a notice identifying the lien. Borrower shall discharge such lien or take one or more of the actions set forth above within 10 days of the giving of notice.

5. **Subordination.**

a. Lender and Borrower acknowledge and agree that this Deed of Trust is subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Deed of Trust and to all advances heretofore made or which may hereafter be made pursuant to the First Deed of Trust including all sums advanced for the purpose of protecting or further securing the lien of the First Deed of Trust, curing defaults by the Borrower under the First Deed of Trust or for any other purpose expressly permitted by the First Deed of Trust. In the event of a foreclosure or deed in lieu of foreclosure under the First Deed of Trust, any provisions herein or any provisions in any other collateral agreement restricting the use of the Property to low- to middle-income households or otherwise restricting the Borrower's ability to sell the Property shall have no further force or effect on subsequent owners or purchasers of the Property, unless Borrower or a related entity of the Borrower acquires title through such foreclosure. Any person, including successors or assigns (other than the Borrower or a related entity of the Borrower), receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the First Deed of Trust shall receive title to the Property free and clear from such restrictions.

b. Further, if the Senior Lender acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this Deed of Trust shall automatically terminate upon the Senior Lender's acquisition of title, provided that (i) the Lender has been given written notice of a default under the First Deed of Trust (which requirements may be satisfied by recordation of a notice of default under California Civil Code Section 2924 and (ii) the Lender shall not have cured the default under the First Deed of Trust, , within 90 days from the date of notice sent to the Lender.

c. After the date of this Deed of Trust, the Lender's prior written approval, in its sole and absolute discretion, is required of any subordination of this Deed of Trust to financing secured by a mortgage, deed of trust, lien, or other instrument on the Property.

6. Hazard or Property Insurance.

a. Borrower shall keep the improvements now existing or hereafter erected on the Property insured on an all-risk form, excluding earthquake and flood, for one hundred percent (100%) of the replacement value, with a deductible not to exceed Ten Thousand Dollars (\$10,000) each loss. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option, and at Borrower's cost which shall be added to the Principal Amount and secured by this Deed of Trust, obtain coverage to protect Lender's rights in the Property in accordance with Section 8.

b. All insurance policies and renewals, including the issuer of such policies, shall be acceptable to Lender and shall include a standard mortgagee clause. All requirements hereof pertaining to insurance shall be deemed satisfied if the Borrower complies with the insurance requirements under the First Deed of Trust. All original policies of insurance required pursuant to the First Deed of Trust may be held by the Senior Lender; provided, however, Lender shall be named as a loss payee as its interest may appear and shall be named as an additional insured. If Lender requires, Borrower shall promptly give to Lender copies of all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier, the Senior Lender and Lender. Lender may make proof of loss if not made promptly by the Senior Lender or the Borrower.

c. Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not impaired as determined by Lender in its sole discretion. If the restoration or repair is not economically feasible or Lender's security would be impaired, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within 30 days from the date of a written notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Deed of Trust, whether or not then due. The 30 day period will begin when the notice from Lender that the insurance carrier has offered to settle a claim is given.

d. Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the payments referred to in the Note or change the amount of the payments. If under Section 21 the Property is acquired by Lender, Borrower's right to any insurance policies and proceeds resulting from damage to the Property prior to the acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to the acquisition.

e. Notwithstanding the above, the Lender's rights to collect and apply the insurance proceeds hereunder shall be subject and subordinate to the rights of the Senior Lender to collect and apply such proceeds in accordance with the First Deed of Trust.

7. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds.

a. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within sixty days after the execution of this Deed of Trust. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default under this Deed of Trust if any forfeiture action or proceeding, whether civil or criminal, is begun that in Lender's reasonable judgment could result in forfeiture of the Property or otherwise materially impair the lien created by this Deed of Trust. Borrower may cure such a default and reinstate Borrower's obligations, as provided in Section 21, by causing the action or proceeding to be dismissed with a ruling that, in Lender's

reasonable determination, precludes forfeiture of the Borrower's interest in the Property or other material impairment of the lien created by this Deed of Trust or Lender's security interest.

b. Borrower shall also be in default under this Deed of Trust if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the Loan evidenced by the Note, including, but not limited to, representations concerning (1) Borrower's intent to occupy the Property as a principal residence; (2) Borrower's income and liquid assets; (3) Borrower's eligibility under the applicable requirements for a loan under the DALP Manual (including, but not limited to, eligibility as a First-Time Homebuyer); (4) Borrower's completion of the approved Homebuyer Education Course; and (5) Borrowers household size and composition.

c. The Borrower acknowledges that this Property is subject to certain use and occupancy restrictions under the DALP Manual, generally limiting the Property's use to low- to middle-income housing as further described in the DALP Manual. The DALP Manual also requires the Borrower to occupy and use the Property as Borrower's Primary Residence and prohibit the Borrower from renting the Property at any time, except under limited circumstances set forth in the DALP Manual. Any violation of the use and occupancy restrictions by Borrower shall be deemed a default hereunder and entitle the Lender to the remedies provided in Section 21 hereof.

d. If an Event of Default has occurred and is continuing related to any lease of the Property in violation of the Note and the DALP Manual, Borrower hereby irrevocably grants, transfers, and assigns to Beneficiary all of its right, title, and interest in and to any rents as additional security for the Secured Obligations, and Lender has the right, power, and authority to collect any and all such rents. Borrower hereby appoints Beneficiary its attorney-in-fact to perform any and all acts under this Subsection (d), if and at the times when Beneficiary in its sole discretion may so choose. Lender's right to any rents does not depend on whether or not Lender takes possession of the Property. In Lender's sole discretion, it may choose to collect any rents either with or without taking possession of the Property. If an Event of Default occurs while Lender is in possession of all or part of the Property and is collecting rents as permitted under this Deed of Trust, Lender, Trustee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Deed of Trust and at law or in equity, including the right to exercise the power of sale granted hereunder. Under no circumstances shall Lender have any duty to produce Rents from the Property. Regardless of whether or not Lender, in person or by agent, takes actual possession of the Property, Lender is not and shall not be deemed to be a "mortgagee in possession" for any purpose; responsible for performing any of the obligations of the lessor under any lease; responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair, or control of the Property; or liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it. Upon the occurrence and during the continuance of an Event of Default, Lender, at its option, may exercise its rights under this Section or otherwise provided under applicable law (including, but not limited to, under Section 2938 of the California Civil Code).

8. Protection of Lender's Rights in the Property.

a. If there is an event of default by the Owner under this Deed of Trust or any of the Owner Documents, or if the Property or any part thereof, or any interest therein is sold, conveyed, alienated or refinanced by the Owner, or by the operation of law or otherwise, in violation of any of the Owner Documents, all obligations secured by this Deed of Trust, at the City's sole option and without demand or notice, shall immediately become due and payable.

b. If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Deed of Trust (including sums secured by the First Deed of Trust), appearing in court, paying

reasonable attorneys' fees and entering on the Property to make repairs. Although Lender may take action under this Section 8, Lender is not required to do so.

c. Any amounts disbursed by Lender under this Section 8 shall become additional debt of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, these amounts shall become a part of the Principal Amount of the Loan for the purpose of calculating the Share of Appreciation due to the Lender under the Note.

d. Prior to taking any actions under this Section 8, however, Lender shall notify the Senior Lender of such default in the manner provided in Section 21, and shall provide the Senior Lender with the opportunity to cure any such default under this Deed of Trust. All amounts advanced by the Senior Lender to cure a default hereunder shall be deemed advanced by the Senior Lender and shall be secured by the First Deed of Trust in accordance with the First Deed of Trust Loan Documents. In addition, the Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Senior Lender at least 60 days' prior written notice. Borrower acknowledges that any action by Lender hereunder to foreclose or accept a deed in lieu of foreclosure may, at Lender's option, be subject to any "due on sale" provisions of the First Deed of Trust.

e. Lender and Borrower further agree that a default hereunder shall constitute a default under the First Deed of Trust. In the event of a default hereunder, following any applicable notice and cure periods, the Senior Lender shall have the right to exercise all rights and remedies under the First Deed of Trust.

9. **Inspection.** Lender or its agent may make reasonable entries upon and inspections of the Property. Lender shall give Borrower notice at the time of or prior to an inspection specifying reasonable cause for the inspection.

10. **Condemnation.**

a. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender, subject to the terms of the First Deed of Trust.

b. In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed of Trust, whether or not then due, with any excess paid to Borrower. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is equal to or greater than the amount of the sums secured by this Deed of Trust immediately before the taking, unless Borrower and Lender otherwise agree in writing, the Lender shall receive payment of the amount of the proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the taking, divided by (b) the fair market value of the Property immediately before the taking. Any balance shall be paid to Borrower, and the amount secured by this Deed of Trust shall be reduced by the amount paid to the Lender. In the event of a partial taking of the Property in which the fair market value of the Property immediately before the taking is less than the amount of the sums secured immediately before the taking, unless Borrower and Lender otherwise agree in writing or unless applicable law otherwise provides, the proceeds shall be applied to the sums secured by this Deed of Trust whether or not the sums are then due.

c. If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust, whether or not then due.

d. Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of payments under the Note or change the amount of such payments.

11. **Borrower Not Released; Forbearance By Lender Not a Waiver.** Any extension of the time for payment or modification or amortization of the sums secured by this Deed of Trust granted by Lender to Borrower or Borrower's successors in interest shall not operate to release the liability of the Borrower or Borrower's successors in interest. Lender shall not be required to commence proceedings against any successor in interest or refuse to extend time for payment or otherwise modify amortization of the sums secured by this Deed of Trust by reason of any demand made by the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

12. **Joint and Several Liability.** In the event more than one individual or entity executes this note as a Borrower, then each Borrower's covenants and agreements shall be joint and several.

13. **Loan Charges.** If the Loan secured by this Deed of Trust is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower.

14. **Notices.** All notices required by this Deed of Trust shall be made in writing, and shall be deemed communicated by personal delivery or by United States mail, postage prepaid (unless applicable law requires use of another method), as of the earlier of actual receipt or three days from mailing, addressed as follows:

To Lender: Director
Mayor's Office of Housing and Community Development
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103

To Borrower: At the Property Address in Section 1

To the Senior Lender:

or such other address as either Lender, Borrower or Senior Lender may designate, from time to time, by written notice sent to the others in like manner.

15. **Governing Law; Severability.** This Deed of Trust shall be governed by federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Deed of Trust or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision. To this end the provisions of this Deed of Trust and the Note are declared to be severable.

16. **Borrower's Copy.** Borrower shall be given one copy of the Note and a confirmed copy of this Deed of Trust.

17. **Transfer of the Property or a Beneficial Interest in Borrower.**

a. Except for a conveyance to the trustee under the First Deed of Trust, and except as otherwise permitted under the Note, if all or any part of the Property or any interest in it is sold or transferred (or if a beneficial interest in Borrower is sold or transferred and Borrower is not a natural person) without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Deed of Trust. However, this option shall not be exercised by Lender if exercise is prohibited by federal law as of the date of this Deed of Trust.

b. If Lender exercises its option under Subsection (a), Lender shall give Borrower and the Senior Lender's prior written notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is delivered or mailed within which Borrower must pay all sums secured by this Deed of Trust. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Deed of Trust without further notice or demand on Borrower.

c. Notwithstanding Lender's right to invoke any remedies hereunder, as provided in Section 8 above, Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Senior Lender at least 60 days' prior written notice.

d. The Borrower and the Lender agree that whenever the Note or this Deed of Trust gives the Lender the right to approve or consent with respect to any matter affecting the Property (or the construction of any improvements thereon) or otherwise (including the exercise of any "due on sale" clause), and a right of approval or consent with regard to the same matter is also granted to the Senior Lender pursuant to the First Deed of Trust, the Senior Lender's approval or consent or failure to approve or consent, as the case may be, shall be binding on the Borrower and the Lender.

18. **Borrower's Right to Reinstate.** If Borrower meets certain conditions specified below, Borrower shall have the right to have enforcement of this Deed of Trust discontinued at any time prior to the earlier of: (a) 5 days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Deed of Trust; or (b) entry of a judgment enforcing this Deed of Trust. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Deed of Trust and the Note as if no acceleration had occurred; (b) cures any default; (c) pays all expenses incurred by Lender in enforcing this Deed of Trust, including, but not limited to, reasonable attorneys' fees; and (d) takes such action as Lender may reasonably require to assure that the lien of this Deed of Trust, Lender's rights in the Property and Borrower's obligation to pay the sums secured by this Deed of Trust shall continue unchanged. Upon reinstatement by Borrower, this Deed of Trust and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 21.

19. **Sale of Note; Change of Loan Servicer.** The Note or a partial interest in the Note (together with this Deed of Trust) may be sold one or more times without prior notice to Borrower. A sale may result in a change in the entity (known as the "Loan Servicer") that collects payments due under the Note and this Deed of Trust. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change in accordance with Section 14 above and applicable law. The notice will state the name and address of the new Loan Servicer and the address to which payments should be made. The notice will also contain any other information required by applicable law.

20. **Hazardous Substances.**

a. Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances (as defined below) on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any Environmental Law (as defined below). The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

b. Borrower shall promptly give Lender written notice of any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge. If Borrower learns, or is notified by any governmental or regulatory authority, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Prior to taking any such remedial action, however,

the Borrower shall notify the Lender and the Senior Lender that such remedial action is necessary and shall obtain the Senior Lender's prior written consent for such remedial action.

As used in this Section 20, "Hazardous Substances" are those substances defined as toxic or hazardous substances by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials. As used in this Section 20, "Environmental Law" means federal, state or local laws that relate to health, safety or environmental protection.

21. **Acceleration; Remedies.**

a. Lender shall give notice to Borrower and the Senior Lender prior to acceleration following Borrower's breach of any covenant or agreement in this Deed of Trust. The notice shall specify: (i) the default; (ii) the action required to cure the default; (iii) a date, not less than 30 days from the date the notice is given to Borrower (and with respect to the Senior Lender, 60 days from the date the notice is given to the Senior Lender), by which the default must be cured; and (iv) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non existence of a default or any other defense of Borrower to acceleration and sale.

b. If the default is not cured by the Borrower on or before the date specified in the notice, and the Senior Lender has not exercised its right to cure the default, then Lender at its option may require immediate payment in full of all sums secured by this Deed of Trust without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Notwithstanding Lender's right to invoke any remedies hereunder, as provided in Section 8 above, the Lender agrees that it will not commence foreclosure proceedings or accept a deed in lieu of foreclosure, or exercise any other rights or remedies hereunder until it has given the Senior Lender at least 60 days' prior written notice. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 21, including, but not limited to, reasonable attorneys' fees.

c. If Lender invokes the power of sale, Lender or Trustee shall mail copies of a notice of sale in the manner prescribed by applicable law to Borrower, the Senior Lender and to the other persons prescribed by applicable law. Trustee shall give notice of sale by public advertisement for the time and in the manner prescribed by applicable law. Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder for cash at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property to any later time on the same date by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

d. Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (i) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (ii) to all sums secured by this Deed of Trust; and (iii) any excess to the person or persons legally entitled to it.

22. **Release.** Upon payment of all sums secured by this Deed of Trust, Lender shall reconvey this Deed of Trust without charge to Borrower. Borrower shall pay any recordation costs.

23. **Substitute Trustee.** Lender, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Deed of Trust is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by applicable law.

24. **Modification of First Deed of Trust Loan Documents.** The Lender consents to any agreement or arrangement in which the Senior Lender waives, postpones, extends, reduces or modifies any provisions of the First Deed of Trust Loan Documents, including any provisions requiring the payment of money.

25. **Successors and Assigns.** The covenants and agreements of this Deed of Trust shall bind and benefit the successors and assigns of Lender and Borrower, subject to the provisions of Section 17.

BY SIGNING BELOW, the Borrower accepts and agrees to the terms and covenants contained in this Deed of Trust.

BORROWER(S):

Applicant 1

Applicant 2

(ALL SIGNATURES MUST BE NOTARIZED)