

<p>DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202 720.865.8612</p>	<p>DATE FILED: August 29, 2019 9:32 AM FILING ID: C35EEEC937706 CASE NUMBER: 2019CV33315</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiff: Harvey Sender, as Receiver for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC</p> <p>v.</p> <p>Defendant: WBF/CT Associates, LLC, a Pennsylvania Limited Liability Company</p>	
<p>Attorneys for Receiver: Michael T. Gilbert, #15009 Patrick D. Vellone, #15284 Rachel A. Sternlieb, #51404 ALLEN VELLONE WOLF HELFRICH & FACTOR P.C. 1600 Stout St., Suite 1100 Denver, Colorado 80202 Phone Number: (303) 534-4499 E-mail: pvellone@allen-vellone.com E-mail: mgilbert@allen-vellone.com E-mail: rsternlieb@allen-vellone.com</p>	<p>Case Number:</p> <p>Division/Courtroom:</p>
<p>COMPLAINT</p>	

Plaintiff, Harvey Sender, solely in his capacity as Receiver (the “Receiver”) for Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC (the “Estate”) brings the following Complaint.

I. Parties

1. On August 30, 2018, the Court in *Myklebust v. Dragul, et al.* Case No. 2018CV33011, District Court, Denver, Colorado (the “**Receivership Court**”) entered

a Stipulated Order Appointing Receiver (the “**Receivership Order**”) appointing Harvey Sender of Sender & Smiley, LLC as receiver for Gary Dragul (“**Dragul**”), GDA Real Estate Services, LLC (“**GDA RES**”), GDA Real Estate Management, LLC (“**GDA REM**”), and related entities (collectively, “**Dragul and the GDA Entities**”), and their assets, interests, and management rights in related affiliated and subsidiary businesses (the “**Receivership Estate**” or the “**Estate**”).

2. Defendant, WBF/CT Associates, LLC (“**WBF**”), is a limited liability company organized under the laws of the state of Pennsylvania.

3. WBF’s principals are Chad Hurst and Tom Jordan, both Pennsylvania residents.

II. Jurisdiction and Venue

4. Jurisdiction is proper under COLO. REV. STAT. § 13-1-124 and the Colorado Constitution, Article VI, Section 9.

5. Venue is proper under C.R.C.P. 98(a) because this action affects real property located in Denver, Colorado.

III. General allegations

A. Background

6. Dragul, as the President of GDA RES and GDA REM (jointly, “**GDA**”), solicited investors to purchase membership interests in various limited liability companies that were engaged in the business of acquiring commercial real estate. From January 2008 until December 2015, Dragul, through GDA, sold more than \$52 million worth of interests in 14 various LLCs to approximately 175 investors.

7. As part of Dragul’s fraudulent enterprise, he also personally borrowed money from high-interest lenders and secured many of those loans with liens against properties he did not own, but were instead owned by special purpose entities Dragul managed, purportedly for the benefit of investors.

8. WBF invested with and lent funds to Dragul starting in 2006.

9. The Colorado Securities Commissioner and the Colorado Attorney General began to investigate Dragul and the GDA Entities in 2014 after receiving numerous complaints from investors.

10. On April 12, 2018, Dragul was indicted by a Colorado State Grand Jury on nine counts of securities fraud (the “**First Indictment**”).

11. On March 1, 2019, Gary Dragul was indicted by a Colorado State Grand Jury on five counts of securities fraud (the “**Second Indictment**”).

12. On March 18, 2019, WBF filed a claim against the Receivership seeking to recover \$5,330,797.84 based on amounts it claimed to be owed on seven loans it made to Dragul personally in 2017 and 2018. Those loans were all secured by second mortgages Dragul granted on various properties he did not own.

B. The Substitute Deeds of Trust

13. On or about October 30, 2017, Dragul entered into a Loan Agreement with WBF pursuant to which WBF agreed to loan Dragul up to \$750,000. A true and accurate copy of the Loan Agreement is **Exhibit 1** to this Complaint.

14. On October 30, 2017, Dragul executed a Promissory Note payable to WBF in an amount up to \$750,000, which bore 24% per year interest and was payable in full by March 31, 2018 (the “**\$750,000 Note**”). A true and accurate copy of the \$750,000 Note is **Exhibit 2**.

15. Although Dragul was the borrower on the \$750,000 Note, the Note was secured by a second deed of trust (the “**High Street Deed of Trust**”) encumbering properties owned by Lower High Street 17, LLC (2311 South High Street, Denver, Colorado); High Street Condo Project, LLC (2321 South High Street, Denver, Colorado); and Upper High Street 17, LLC (2329 South High Street, Denver, Colorado) (collectively the “**High Street Properties**”). Dragul purchased the High Street Properties using funds solicited from investors. A true and accurate copy of the High Street Deed of Trust is **Exhibit 3**.

16. WBF wired \$383,384 of the \$750,000 loan amount to High Street Condo Project, LLC on November 1, 2017. Dragul then transferred \$380,000 of that \$383,384 to GDA RES, and then from GDA RES to himself personally on November 1, 2017.

17. WBF wired an additional \$200,000 to Dragul on November 1, 2017, and \$150,000 more on November 14, 2017.

18. On or about January 11, 2018, Dragul sold the High Street Properties to GDA-DU Student Housing 18 A, LLC and GDA-DU Student Housing 18 A, LLC as tenants-in-common for \$1,042,500. The DU tenants-in-common acquired the High Street Properties which are across from the University of Denver intending to develop a 0.43-acre site with a 5-story 60,000 sq. ft. student housing development.

19. The \$1,042,500 purchase price was funded by entities formed by Hagshama, an Israeli investment firm, which wired \$1,372,345 to High Street Condo Project, LLC on January 11, 2018. Hagshama also advanced an additional \$1.4 million to Dragul that was to be used to develop the project.

20. In addition to the High Street Deed of Trust, Trepla LLC held a first deed of trust on the High Street Properties.

21. At the closing of the High Street Properties sale to the DU entities on January 11, 2018, Dragul paid Trepla \$334,755.82 and Trepla released its deed of trust.

22. Instead of using the remaining approximate \$1 million from the funds Hagshama advanced to pay off the High Street Deed of Trust, Dragul paid WBF only \$250,000 (and \$15,859 in interest). Dragul pocketed \$750,514.30 of the closing proceeds.

23. To induce WBF to release its High Street Deed of Trust, on January 11, 2018, Dragul and WBF entered into a Modification of Loan Agreement ("**Loan Modification**"). A true and accurate copy of the Loan Modification is **Exhibit 4**.

24. In the Loan Modification, Dragul and WBF agreed to substitute collateral and grant WBF deeds of trust on the following properties to secure the \$500,000 principal balance still owed on the \$750,000 Note:

- A. **South Ash Street, Denver, CO 80222**. Second Deed of Trust dated January 11, 2018, granted by 2166 South Ash 17, LLC, a Colorado limited liability company. This deed of trust was not recorded, however,

until April 27, 2018, at Reception No. 2018049400 in the records of the Clerk and Recorder of the City & County of Denver, State of Colorado.

- B. **2176 South Ash Street, Denver, CO 80222**, Second Deed of Trust dated January 11, 2018, granted by 2176 South Ash 16, LLC, a Colorado limited liability company. This deed of trust was not recorded, however, until April 27, 2018, at Reception No. 2018049401 in the records of the Clerk and Recorder of the City & County of Denver, State of Colorado.
- C. **2186 South Ash Street, Denver, CO 80222**, Second Deed of Trust dated January 11, 2018, granted by 2186 South Ash 16, LLC, a Colorado limited liability company. This deed of trust was not recorded, however, until April 27, 2018, at Reception No. 2018049402 in the records of the Clerk and Recorder of the City & County of Denver, State of Colorado.
- D. **2196 South Ash Street, Denver, CO 80222**, Second Deed of Trust dated January 11, 2018, granted by 2196 South Ash 16, LLC, a Colorado limited liability company. This deed of trust was not recorded, however, until April 27, 2018, at Reception No. 2018049403 in the records of the Clerk and Recorder of the City & County of Denver, State of Colorado.
- E. **2175 South Bellaire Street, Denver, CO 80222**, Second Deed of Trust dated January 11, 2018, granted by 2175 South Bellaire 16, LLC, a Colorado limited liability company. This deed of trust was not recorded, however, until April 27, 2018, at Reception No. 2018049404 in the records of the Clerk and Recorder of the City & County of Denver, State of Colorado.
- F. **2195 South Bellaire Street, Denver, CO 80222**, Second Deed of Trust dated January 11, 2018, granted by 2195 South Bellaire 16, LLC, a Colorado limited liability company. This deed of trust was not recorded, however, until April 27, 2018, at Reception No. 2018049399 in the records of the Clerk and Recorder of the City & County of Denver, State of Colorado.
- G. **6316 East Fair Avenue, Centennial, CO 80111**, Second Deed of Trust dated January 11, 2018, granted by 6316 East Fair 16, LLC, a Colorado limited liability company. This deed of trust was not recorded, however, until April 27, 2018, at Reception No. D8041026 in the records of the Clerk and Recorder of Arapahoe County, State of Colorado.
- H. **7842 East Briarwood Boulevard, Centennial, CO 80112**, Second Deed of Trust dated January 11, 2018, granted by 7842 East Briarwood

16, LLC, a Colorado limited liability company. This deed of trust was not recorded, however, until April 27, 2018, at Reception No. D8041025 in the records of the Clerk and Recorder of Arapahoe County, State of Colorado.

Collectively, these deeds of trust are referred to as the “**Substitute Deeds of Trust**” and/or the “**Transfers**,” and the grantors of the Substitute Deeds of Trust as the “**Grantors of the Substitute Deeds of Trust**.”

25. The Substitute Deeds of Trust were recorded on April 28, 2018, sixteen days after the First Indictment and the day after the First Indictment was reported in the Denver press. Pursuant to Colo. REV. STAT. § 38-8-107(1)(a)(I), the date of the Transfers is April 28, 2018.

26. WBF provided no consideration for the Loan Modification or the Transfers.

27. WBF did not provide, and the Grantors of the Substitute Deeds of Trust, did not receive, any consideration for the Substitute Deeds of Trust. No consideration supports the Transfers.

28. WBF was aware of the First Indictment when the Substitute Deeds of Trust were recorded and had pressured Dragul and the GDA Entities to record the Substitute Deeds of Trust due to concerns raised by the First Indictment.

29. The Receiver has standing to pursue claims for the benefit of creditors under applicable law and the Receivership Order. *See* Receivership Order ¶ 9.

First Claim for Relief (Turnover)

30. The Receiver incorporates the previous allegations of the Complaint as if fully set forth herein.

31. Pursuant to paragraphs 10 and 11, of the Receivership Order, all persons in active participation with, or creditors of, Dragul and the GDA Entities, or who hold property of the Estate, have been “ordered to deliver immediately to the Receiver all of the Receivership Property.”

32. The Transfers are transfers of Estate property and are subject to turnover pursuant to paragraph 11 of the Receivership Order.

33. Under the Receivership Order, WBF should be ordered to release its Substitute Deeds of Trust and/or to pay the Estate the value thereof.

Second Claim for Relief

(Actual Fraud – COLO. REV. STAT. § 38-8-105(1)(a))

34. The Receiver incorporates the previous allegations of the Complaint as if fully set forth herein.

35. At all times relevant hereto, and with respect to the Transfers, there existed one or more creditors whose claims arose either before or after the Transfers.

36. The Transfers were made furtherance of Dragul's fraudulent investment scheme with the actual intent to hinder, delay, and defraud creditors.

37. Pursuant to COLO. REV. STAT. §§ 38-8-108(1)(a) and 38-8-109(2), the Receiver is entitled to a judgment avoiding the Transfers, directing the Transfers be set aside, and recovering the Transfers, or the value thereof, from WBF for the benefit of the Estate.

Third Claim for Relief

(Constructive Fraud – COLO. REV. STAT. § 38-8-105(1)(b))

38. The Receiver incorporates the previous allegations of the Complaint as if fully set forth herein.

39. At all times relevant hereto, and with respect to the Transfers, there existed one or more creditors whose claims arose either before or after the Transfers.

40. Grantors did not receive reasonably equivalent value in exchange for the Transfers.

41. At the time of the Transfers, Dragul and the GDA Entities and Grantors (collectively, the "Sham Business") were engaged or were about to engage in a business or a transaction for which their remaining assets were unreasonably small in relation to the business or transaction.

42. At the time of each Transfer, the Sham Business intended to incur, or believed or reasonably should have believed that it would incur, debts beyond its ability to pay as they became due.

43. As a result of the foregoing, pursuant to COLO. REV. STAT. § §§ 38-8-108(1)(a) and 38-8-109(2), the Receiver is entitled to a judgment avoiding the Transfers, directing that the Transfers be set aside, and recovering the Transfers, or the value thereof, from WBF for the benefit of the Estate.

Fourth Claim for Relief

(Fraudulent transfer – COLO. REV. STAT. § 38-8-106(1))

44. The Receiver incorporates the previous allegations of the Complaint as if fully set forth herein.

45. At all times relevant hereto, and with respect to the Transfers, there existed one or more creditors whose claims arose before or after the Transfers.

46. Grantors of the Substitute Deeds of Trust did not receive reasonably equivalent value in exchange for the Transfers.

47. At the time of the Transfers, the Sham Business was insolvent or became insolvent as a result of the Transfers.

Fifth Claim for Relief

(Unjust Enrichment)

48. The Receiver incorporates the previous allegations of the Complaint as if fully set forth herein.

49. By virtue of the Substitute Deeds of Trust, WBF received a benefit at the Estate's expense under circumstances that would make it unjust for WBF to retain the benefits of the Substitute Deeds of Trust without paying the Estate the value thereof.

WHEREFORE, the Receiver asks the Court to enter judgment in his favor and against Defendant as follows:

A. On the First Claim for Relief an order requiring WBT to execute releases of the Substitute Deeds of Trust or to turn over to the Receiver the value of the Transfers.

B. On the Second, Third, and Fourth Claims for Relief, pursuant to COLO. REV. STAT. §§ 38-8-105, 38-8-108(1)(a), and 38-8-109(2): (a) avoiding and preserving the Transfers, (b) directing that the Transfers be set aside, and (c) recovering the Transfers, or enter judgment in the Receiver's favor and against WBF for the value thereof;

C. On the Fifth Claim for Relief, requiring WBT to release its Substitute Deeds of Trust or enter judgment in the Receiver's favor and against WBF for the value thereof;

D. On all Claims for Relief, pursuant to Colorado law, awarding the Receiver pre-and post-judgment interest from the date on which WBF received the Transfers, and costs; and

E. Granting the Receiver any additional relief the Court deems appropriate.

Dated: August 28, 2019.

ALLEN VELLONE WOLF HELFRICH & FACTOR
P.C.

By: s/ Michael T. Gilbert 

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ATTORNEYS FOR THE PLAINTIFF AS RECEIVER

Address for Plaintiff:

Sender & Smiley LLC

600 17th Street

Suite 2800 South

Denver, CO 80202

LOAN AGREEMENT

This LOAN AGREEMENT (this "**Agreement**") is made as of the DATE FILED: August 29, 2019 9:32 AM
FILING ID: C35EEEC937786
CASE NUMBER: 2019CV33315 day of October, 2017, by and between Gary J. Dragul ("**Borrower**"), having an address at 5690 DTC Boulevard, Suite 515, Greenwood Village, Colorado 80111, and WBF/CT Associates, LLC, a Pennsylvania limited liability company ("**Lender**"), having an address at 9 Waterfront Estates Dr., Lancaster, PA 17602.

RECITALS

A. Borrower, by the terms of that certain promissory note (such promissory note, together with any and all renewals, amendments, modifications, consolidations and extensions thereof, is hereinafter referred to as the "**Note**") of even date with this Agreement made by Borrower in connection with a mortgage loan (the "**Loan**") is indebted to Lender in the principal amount of up to a maximum amount of Seven Hundred Fifty Thousand and 00/100 Dollars (\$750,000.00), together with interest as therein provided.

B. Borrower has caused each of Lower High Street 17, LLC, a Colorado limited liability company, High Street Condo Project, a Colorado limited liability company, and Upper High Street 17, LLC, a Colorado limited liability company (collectively, "**Pledgor**"), pursuant to the terms of that certain Deed of Trust, dated as of the date hereof ("**Mortgage**"), to grant to Lender a second priority security interest in the real property owned by each Pledgor and described in the Mortgage and in **Exhibit A** attached hereto and made a part hereof ("**Property**"). All capitalized terms not defined herein shall have the respective meanings set forth in the Mortgage.

C. The Note, Mortgage, this Agreement and such other agreements, documents, certificates, financing statements and instruments given in connection with the Loan, together with any and all renewals, amendments, extensions and modifications thereof, are hereinafter collectively referred to as the "**Loan Documents**".

NOW, THEREFORE, in consideration of the covenants set forth in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows.

ARTICLE I OBLIGATIONS AND PAYMENTS

1.1 **Obligations.** This Agreement is executed, acknowledged, and delivered by Borrower to secure and enforce the following obligations:

A. The full and prompt payment of all indebtedness and liabilities, now owing or which may hereafter be owing under the Note including without limitation (i) the Initial Loan Amount and Additional Loan Amount(s) (as defined herein), and (ii) pursuant to renewals, extensions, amendments, and modifications of the Note and/or any of the other Loan Documents;

B. The full and prompt payment and performance of every provision, obligation, covenant and agreement contained herein or in any other Loan Document;

C. Payment of any and all additional sums advanced, allocated or accrued (including fees, costs and expenses) by Lender pursuant to the Loan Documents, including, without limitation, any additional advances made by Lender and for performance of any of Borrower's obligations hereunder or under the other Loan Documents; and

D. Any and all other indebtedness now owing or which may hereafter be owing by Borrower to Lender, however and whenever incurred or evidenced, whether express or implied, direct or indirect, absolute or contingent, or due or to become due, and all renewals, modifications, consolidations, replacements and extensions thereof.

All of the sums referred to in Paragraphs A through D above, are herein sometimes referred to as the "**Indebtedness**", "**indebtedness secured hereby**", the "**secured indebtedness**" or the "**Debt**".

1.2 Key Definitions.

A. "**Business Day**" shall mean any day other than a Saturday, a Sunday, a legal holiday or other day on which commercial banks in the state in which the Property is located are authorized or required by law to close.

B. "**Material Action**" shall mean any action to (i) institute proceedings to be adjudicated bankrupt or insolvent or to have Borrower adjudicated, bankrupt or insolvent; (ii) consent to the institution of bankruptcy or insolvency proceedings against Borrower; (iii) file a petition seeking, or to consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy for Borrower; or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of Borrower or a substantial part of Borrower's property; (iv) make any assignment for the benefit of creditors for Borrower; (v) admit in writing Borrower's inability to pay its debts generally as they become due; or (vi) take any action in furtherance of any such action.

1.3 Loan Advances and Payments.

A. Advance of Principal on the Note. As of the date of this Agreement, Lender shall extend to Borrower principal under the Loan in the amount of \$400,000.00 ("**Initial Loan Amount**"). Borrower agrees to pay to Lender the Initial Loan Amount plus interest on the unpaid principal balance of the Existing Loan Amount at the rate of 2.0% per month from the date of Borrower's receipt of the Initial Loan Amount until paid in full, as further set forth herein. Interest only shall be payable monthly beginning one month from the date of Borrower's receipt of the Initial Loan Amount and continuing each month thereafter until the Initial Loan Amount, all accrued interest and other amounts due and payable with respect to the Initial Loan Amount are paid in full.

B. Payment on the Note. The Initial Loan Amount and all accrued and unpaid interest shall be due and payable by Borrower to Lender in a lump sum on the date that is five (5) months following the date of Borrower's receipt of the Initial Loan Amount ("**Maturity Date**"), provided that if the Maturity Date falls on a day that is not a Business Day, such Maturity Date shall be extended to the next Business Day. The Initial Loan Amount may be paid by Borrower to Lender prior to the Maturity Date. In addition, Borrower may extend the Maturity Date by two (2) months by delivering to Lender within ten (1) days following the Maturity Date a payment equal to \$7,500.00.

C. Advance of Additional Amounts under the Loan. By November 14, 2017, upon request by Borrower, Lender shall advance to Borrower additional principal under the Loan in an amount up to \$350,000.00 ("**Additional Loan Amount**") as further set forth herein. To receive disbursements of the Additional Loan Amount, Borrower shall submit to Lender a written

disbursement request, in substantially the form attached hereto as **Exhibit B**, not more frequently than monthly (“**Disbursement Request**”). Each Disbursement Request shall identify the requested Additional Loan Amount, confirm the improvements to the Property completed as of the date of such Disbursement Request and be accompanied by a conditional lien waiver, or lien waivers, from Borrower’s contractor covering the Additional Loan Amount identified in the Disbursement Request. With respect to any Disbursement Request, Borrower shall provide such additional reasonable supporting information as Lender may request. Lender will disburse the requested portion of the Additional Loan Amount within five (5) Business Days following Borrower’s delivery of a Disbursement Request.

D. **Payment of Additional Loan Amounts.** Borrower agrees to pay to Lender each Additional Loan Amount plus interest on the unpaid principal balance of each Additional Loan Amount at the rate of 2.0% per month from the date of Borrower’s receipt of each Additional Loan Amount until paid in full, as further set forth herein. Interest only shall be payable monthly beginning one month from the date of Borrower’s receipt of each Additional Loan Amount and continuing each month thereafter until each Additional Loan Amount, all accrued interest and other amounts due and payable with respect to each Additional Loan Amount is paid in full. Each Additional Loan Amount and all accrued and unpaid interest thereon shall be due and payable by Borrower to Lender in full on the Maturity Date, subject to extension of the Maturity Date as set forth herein.

1.4 **Default Interest.** In the event Borrower fails to repay the Initial Loan Amount on or before the Initial Loan Amount Maturity Date, as it may be extended per the terms of this Agreement, or fails to repay any Additional Loan Amount on or before the applicable Additional Loan Amount Maturity Date, and such failure continues for more than ten (10) days following Borrower’s receipt from Lender of written notice of such failure, in addition to any other remedies available to Lender and the remedies set forth in the Note, Mortgage, and other Loan Documents, Borrower shall pay a late charge equal to the greater of \$1,500 or five percent (5%) of the missed payment (the “**Late Charge**”).

1.5 **Prepayment.** The Note may be prepaid at any time without penalty, provided that if the Note is prepaid sooner than the Maturity Date such prepayment shall be accompanied by an amount equal to the difference between five (5) months’ interest on such prepaid amount and the amount of interest already paid to Lender by Borrower on such prepayment amount.

ARTICLE II

REPRESENTATIONS, WARRANTIES AND COVENANTS OF BORROWER

For the purpose of further securing the Debt and all other obligations under the Loan Documents, for so long as the Debt or any part thereof remains unpaid, Borrower represents, warrants, covenants and agrees as follows:

2.1 **Representations, Warranties and Covenants of Borrower.** Borrower, for itself and its successors and assigns, does hereby represent, warrant and covenant to and with Lender, his successors and assigns that:

A. **Authorization.** Borrower has taken all necessary action for the authorization of the borrowing on account of the Loan, and for the execution, delivery and performance of the Loan Documents.

B. Valid Execution and Delivery. All of the Loan Documents requiring execution by Borrower have been duly and validly executed and delivered by Borrower.

C. Enforceability. All of the Loan Documents constitute valid, legal and binding obligations of Borrower and are fully enforceable against Borrower in accordance with their terms by Lender and its successors, transferees and assigns.

D. No Defenses. To Borrower's knowledge, the Note, the Mortgage, this Agreement and the other Loan Documents are not subject to any right of rescission, offset, counterclaim or defense, including, without limitation, any valid offset, defense, counterclaim or right based on intentional fraud by Lender in connection with the origination of the Loan, nor would the operation of any of the terms of the Note, the Mortgage, this Agreement or any of the other Loan Documents, or the exercise of any right thereunder, render this Agreement unenforceable, in whole or in part, or subject to any right of rescission, offset, counterclaim or defense, including, without limitation, the defense of usury.

E. No Conflict/Violation of Law. To Borrower's knowledge, the execution, delivery and performance of the obligations imposed on Borrower under the Loan Documents will not cause Borrower to be in default, including after due notice or lapse of time or both, under the provisions of any agreement, judgment or order to which Borrower is a party or by which Borrower is bound or under any statute, ordinance, order, rule, decree or regulation of any governmental authority.

F. Compliance with Applicable Laws and Regulations. The Property is in compliance with, and shall remain in compliance with, all applicable federal, state, county, municipal and other governmental statutes, laws, rules, regulations, ordinances and easements, covenants, restrictions and conditions now or hereafter relating to the ownership, construction, use or operation of the Property.

G. No Litigation. There are no pending, filed, threatened or, to Borrower's knowledge, contemplated judicial, governmental, administrative, mediation or arbitration actions, suits or proceedings, arbitrations or governmental investigations against the Property (including, without limitation, Borrower's interest therein) or Borrower, an adverse outcome of which would, to Borrower's knowledge and belief, materially and adversely affect Borrower's right, title and interest in and to the Property.

H. Title. Except for the first lien of each first priority lender (the "**First Liens**"), Pledgor has good, marketable and indefeasible fee simple title to the Property, free and clear of all other mortgages, deeds of trust, liens, pledges, hypothecations, assignments, security interests, or other encumbrances, charges or transfers of, on or affecting the Property or any portion thereof or Borrower, or any interest therein, including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, the filing of any financing statement, and mechanic's, materialmen's and other similar liens and encumbrances (collectively, "**Liens**"), subject only to (i) the First Liens, (ii) the lien of current real property taxes, water charges, sewer rents and assessments not yet due and payable; (iii) covenants, conditions and restrictions, rights of way, easements and other matters of public record; and (iv) the rights of tenants (as tenants only) under Leases (excepting therefrom all pre-printed and/or standard exceptions, the "**Permitted Exceptions**"). Further, Pledgor has full power and lawful authority to grant, bargain, sell, convey, assign, transfer, encumber and mortgage its interest in the Property in the manner and form contemplated by the Mortgage.

I. No Other Mortgage Liens. Except for the First Liens, there are no senior or junior mortgages or mortgage liens encumbering the Property or any portion thereof, other than the Mortgage.

J. Lien Priority. Upon the execution by Borrower and the recording of the Mortgage, Lender will have a valid, perfected, second priority lien on the Property (as defined in the Mortgage) subject to the First Liens but to no other no liens, charges or encumbrances other than the Permitted Exceptions. The Mortgage also creates a valid lien or security interest in the Rents and Profits, subject only to the First Liens and the license granted to Borrower under the Mortgage, in certain circumstances, to exercise certain rights and to perform certain obligations of the lessor under the Leases.

K. Use of Funds. The purpose of the Loan is to finance the business purposes of Borrower. No funds disbursed pursuant to the Loan shall be used for personal or consumer purposes.

L. Taxes Paid. Borrower has filed (or has obtained effective extensions for filing) all federal, state, county and municipal tax returns required to have been filed by Borrower, has paid such returns and Borrower has no knowledge of any basis for additional assessment with respect to such taxes. Further, the Property is free from delinquent water charges, sewer rents, taxes and assessments and other governmental charges, including, without limitation, all real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against the Property or part thereof, together with all interest and penalties thereon (collectively, "**Taxes**").

M. Special Assessments. To the knowledge of Borrower, there are no pending or proposed special or other assessments for public improvements or otherwise affecting the Property other than as set forth in Borrower's construction budget.

N. No Labor or Materialmen Claims. All parties furnishing labor and materials have been paid in full and, except for such liens or claims insured against by the policy of title insurance to be issued in connection with the Loan, there are no mechanics, laborers, materialmen's or similar liens or claims outstanding for work, labor or materials affecting the Property, whether prior to, equal with or subordinate to the lien of the Mortgage. There are no claims for payment for work, labor or materials affecting the Property which are or may become a lien prior to, or of equal priority with, the liens created by the Loan Documents.

O. No Broker. No financial advisors, brokers, underwriters, placement agents, agents or finders have been dealt with by Borrower in connection with the Loan.

P. Foreign Person. Borrower is not a "foreign person" within the meaning of §1445(f)(3) of the Internal Revenue Code of 1986, as amended, from time to time, or any substitute statute and the related Treasury Department Regulations, including, but not limited to, temporary regulations.

Q. Federal Reserve Regulations. No part of the proceeds of the Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose which would be inconsistent with such Regulation U or any other Regulations of such Board of Governors, or for any purposes prohibited by the terms and conditions of this Agreement or the other Loan Documents

2.2 Defense of Title. Borrower shall promptly notify Lender in writing of any litigation or litigation threatened in writing affecting the Property, or any other demand or claim which, if enforced, could impair or could reasonably threaten to impair Lender's security interest

under the Mortgage. If, while the Mortgage is in force, the title to the Property or the interest of Lender therein shall be the subject, directly or indirectly, of any action at law or in equity, or be attached directly or indirectly, or endangered, clouded or adversely affected in any manner, Borrower, at Borrower's sole cost and expense, shall take all necessary and proper steps for the defense of said title or interest, including, but not limited to, the employment of counsel reasonably approved by Lender, the prosecution or defense of litigation, and the compromise or discharge of claims made against said title or interest.

2.3 **Performance of Obligations.** Borrower shall pay when due the principal of and the interest on the Debt in accordance with the terms of the Note, this Agreement and the other Loan Documents. Borrower shall also pay all charges, fees and other sums required to be paid by Borrower as provided in the Loan Documents, in accordance with the terms of the Loan Documents and shall promptly and strictly observe, perform, comply with and discharge all obligations, covenants and agreements to be observed, performed or discharged by Borrower set forth in the Loan Documents in accordance with their terms. Further, Borrower shall promptly and strictly observe, perform, comply with and discharge all obligations, covenants and agreements required of Borrower in connection with any other document or instrument affecting title to the Property, or any part thereof, regardless of whether such document or instrument is superior or subordinate to the Mortgage.

2.4 **Insurance.** Borrower shall, at Borrower's expense, maintain in full force and effect on the Property at all times while the Mortgage continues in effect and/or the Loan otherwise remains outstanding liability insurance covering the Property in commercially reasonable amounts and with commercially reasonable deductibles. Borrower shall, upon reasonable request, deliver to Lender evidence that said insurance has been prepaid for the applicable term and are in effect. Borrower shall have Lender named as an additional insured on any such insurance policy.

2.5 **Payment of Taxes.** Borrower shall pay or cause to be paid all Taxes which are or may become a lien on the Property or which are assessed against or imposed upon the Property. Borrower shall upon reasonable request by Lender furnish Lender with receipts (or if receipts are not immediately available, with copies of canceled checks or other reasonable documentation evidencing payment with receipts to follow promptly after they become available) showing payment of such Taxes prior to the applicable delinquency date therefor. Notwithstanding the foregoing, Borrower may in good faith, by appropriate proceedings and upon notice to Lender, contest the validity, applicability or amount of any asserted tax or assessment so long as (a) no Event of Default is continuing, and (b) such contest is diligently pursued.

2.6 **Casualty and Condemnation.** Borrower shall give Lender prompt written notice (which shall in no event be greater than ten (10) days following such occurrence) of the occurrence of any material casualty affecting, or the institution of any proceedings for eminent domain or for the condemnation of, the Property or any portion thereof.

2.7 **Liens.** Except for the First Liens and as provided herein, Borrower shall not create, incur, assume or (with the exception of Permitted Exceptions) suffer to exist any Lien on the Property, or any portion thereof, or permit any such action to be taken. Borrower shall pay when due all claims and demands of mechanics, materialmen, laborers and others for any work performed or materials delivered for the Property; provided, however, that, Borrower shall have the right to contest in good faith any such claim or demand, so long as it does so diligently, by appropriate proceedings and without prejudice to Lender and provided that neither the Property nor any interest therein would be in any danger of sale, loss or forfeiture as a result of such proceeding or contest.

2.8 **Payment of Utilities, Assessments, Charges, Etc.** Borrower shall pay or cause to be paid when due all utility charges which are incurred by Borrower or which may become a charge or lien against any portion of the Property for gas, electricity, water and sewer services furnished to the Property and all other assessments or charges of a similar nature, and all assessments payable pursuant to any easements, restrictive covenants and similar agreements with respect to the Property, whether public or private, affecting the Property or any portion thereof, whether or not such assessments or charges are or may become liens thereon.

2.9 **Waste; Alteration of Improvements.** Borrower shall not commit, suffer or permit any waste on the Property nor take any actions that might invalidate any insurance carried on the Property. Borrower shall maintain the Property, or cause the Property to be maintained, in good condition and repair. No part of the Improvements may be removed, demolished or materially altered, without the prior written consent of Lender. Without the prior written consent of Lender, Borrower shall not commence construction of any improvements on the Property other than improvements required for the maintenance or repair of the Property.

2.10 **Compliance with Laws.** Borrower shall at all times comply with all statutes, ordinances, orders, regulations and other governmental requirements now or hereafter relating to the ownership, construction, use or operation of the Property.

2.11 **OFAC Lists.** Borrower hereby represents, warrants and covenants that he is not acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the Persons referred to or described in any list of persons, entities, and governments issued by the Office of Foreign Assets Control of the United States Department of the Treasury (“OFAC”) pursuant to Executive Order 13224 – Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, as amended (“Executive Order 13224”), or any similar list issued by OFAC or any other department or agency of the United States of America (collectively, the “OFAC Lists”), and (ii) he is not acting for or on behalf of, providing assistance, support, sponsorship, or services of any kind to, or otherwise associated with any of the Persons referred to or described in any list of persons, entities, and governments issued by OFAC pursuant to Executive Order 13224, or any other OFAC Lists.

2.12 **Compliance With Anti-Terrorism Regulations.**

A. Borrower hereby covenants and agrees that he will not act for or on behalf of, provide assistance, support, sponsorship, or services of any kind to, or otherwise associate with any of the Persons referred to or described in any list of persons, entities, and governments issued by OFAC pursuant to Executive Order 13224 or any other OFAC Lists, and he will not act for or on behalf of, provide assistance, support, sponsorship, or services of any kind to, or otherwise associate with any of the Persons referred to or described in any list of persons, entities, and governments issued by OFAC pursuant to Executive Order 13224, or any other OFAC Lists.

B. Borrower hereby covenants and agrees that he will comply at all times with the requirements of Executive Order 13224; the International Emergency Economic Powers Act, 50 U.S.C. Sections 1701-06; the United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56; the Iraqi Sanctions Act, Pub. L. 101-513, 104 Stat. 2047-55; the United Nations Participation Act, 22 U.S.C. Section 287c; the Antiterrorism and Effective Death Penalty Act, (enacting 8 U.S.C. Section 219, 18 U.S.C. Section 2332d, and 18 U.S.C. Section 2339b); the International Security and Development Cooperation Act, 22 U.S.C. Section 2349 aa-9; the Terrorism Sanctions Regulations, 31 C.F.R. Part 595; the Terrorism List Governments Sanctions Regulations, 31 C.F.R. Part 596;

and the Foreign Terrorist Organizations Sanctions Regulations, 31 C.F.R. Part 597 and any similar laws are regulation currently in force or hereafter enacted (collectively, the “**Anti-Terrorism Regulations**”).

C. Borrower hereby covenants and agrees that if he becomes aware or receives any notice that any person or entity involved with the Loan is named on any of the OFAC Lists (such occurrence, an “**OFAC Violation**”), Borrower will immediately (i) give notice to Lender of such OFAC Violation, and (ii) comply with all laws applicable to such OFAC Violation (regardless of whether the party included on any of the OFAC Lists is located within the jurisdiction of the United States of America), including, without limitation, the Anti-Terrorism Regulations, and Borrower hereby authorizes and consents to Lender’s taking any and all steps Lender deems necessary, in his sole and absolute discretion, to comply with all laws applicable to any such OFAC Violation, including, without limitation, the requirements of the Anti-Terrorism Regulations (including the “freezing” and/or “blocking” of assets).

ARTICLE III EVENTS OF DEFAULT

The occurrence of any of the following events (each an “**Event of Default**”) shall, if Borrower does not cure any such failure within ten (10) days following receipt of written notice from Lender, be an Event of Default hereunder:

A. Borrower (i) fails to pay any installment of principal, interest, principal and interest, or any other sum when due, (ii) fails to perform any covenant, agreement, obligation, term or condition hereof, or under any other Loan Document, which requires payment of any money to Lender at the time or within any applicable grace period, as set forth herein or therein.

B. Borrower fails to provide insurance as required by this Agreement.

C. Borrower fails to perform any other covenant, agreement, obligation, term or condition set forth herein and, to the extent such failure or default is susceptible of being cured, the continuance of such failure or default for thirty (30) days after the earlier of Borrower’s knowledge thereof or written notice thereof from Lender to Borrower; provided, however, that if such default is susceptible of cure, but such cure cannot be accomplished with reasonable diligence within said period of time, and if Borrower commences to cure such default promptly, and thereafter prosecutes the curing of such default with reasonable diligence, such period of time shall be extended for such period of time as may be necessary to cure such default with reasonable diligence.

D. Any representation or warranty made herein, in any of the other Loan Documents by Borrower is determined by Lender to have been false or misleading in any material respect, or to have contained a material omission, at the time made.

E. A default occurs under any of the other Loan Documents (including, without limitation, any breach or violation of any of the obligations, requirements and/or indemnities under the Loan Documents relating to Hazardous Substances or compliance with Environmental Laws), beyond any periods of notice and cure set forth therein.

F. Borrower becomes insolvent, or makes a transfer in fraud of creditors, or makes an assignment for the benefit of creditors, or files a petition in bankruptcy, or is voluntarily adjudicated insolvent or bankrupt or admits in writing the inability to pay debts as they mature, or petitions or applies to any tribunal for, or consents to or fails to contest the appointment of, a

receiver, trustee, custodian or similar officer for Borrower, for any such principal, general partner or managing member of Borrower or for any such Guarantor or Indemnitor or for a substantial part of the assets of Borrower, of any such principal, general partner or managing member of Borrower or of any such Guarantor or Indemnitor, or commences any case, proceeding or other action under any bankruptcy, reorganization, arrangement, readjustment or debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect.

G. A petition is filed or any case, proceeding or other action is commenced against Borrower or against any Guarantor or Indemnitor under any guaranty or indemnity executed in connection with the Debt seeking to have an order for relief entered against it as debtor or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or other relief under any law relating to bankruptcy, insolvency, arrangement, reorganization, receivership or other debtor relief under any law or statute of any jurisdiction whether now or hereafter in effect, or a court of competent jurisdiction enters an order for relief against Borrower or against any Guarantor or Indemnitor under any guaranty or indemnity executed in connection with the Debt, as debtor, or an order, judgment or decree is entered appointing, with or without the consent of Borrower or of any such Guarantor or Indemnitor, a receiver, trustee, custodian or similar officer for Borrower, or for any such indemnitor or guarantor, or for any substantial part of any of the properties of Borrower, or of any such indemnitor or guarantor, and if any such event shall occur, such petition, case, proceeding, action, order, judgment or decree shall not be dismissed within sixty (60) days after being commenced.

H. The Property or any part thereof is taken on execution or other process of law in any action against Borrower.

I. Borrower abandons all or a portion of the Property.

J. The holder of any lien or security interest on the Property (without implying the consent of Lender to the existence or creation of any such lien or security interest), whether superior or subordinate to the Mortgage or any of the other Loan Documents, declares a default and such default is not cured within any applicable grace or cure period set forth in the applicable document or such holder institutes foreclosure or other proceedings for the enforcement of its remedies thereunder.

K. The Property, or any part thereof, is subjected to actual or threatened waste or to removal, demolition or material alteration so that the value of the Property is materially diminished thereby and Lender determines (in its subjective determination) that it is not adequately protected from any loss, damage or risk associated therewith.

ARTICLE IV REMEDIES

4.1 **Remedies Available.** If there shall occur an Event of Default under any Loan Document, above, then Lender, may take any action (separately, concurrently, cumulatively, and at any time and in any order) to protect and enforce Lender's rights under the Loan Documents including the rights, remedies and recourses set forth in the Mortgage.

4.2 **Fees and Expenses Relating to Enforcement.** Borrower shall be responsible for Lender's reasonable costs and expenses incurred in any efforts to enforce any terms of the Loan

Documents, whether or not any lawsuit is filed and whether or not foreclosure is commenced but not completed, including, but not limited to, reasonable legal fees.

**ARTICLE V
MISCELLANEOUS TERMS AND CONDITIONS**

5.1 **Time of Essence.** Time is of the essence with respect to all provisions of this Agreement and any other Loan Document, including, without limitation, the Note.

5.2 **Maximum Interest.** The provisions of this Agreement and of all agreements between Borrower and Lender, whether now existing or hereafter arising and whether written or oral, are hereby expressly limited so that in no contingency or event whatsoever, whether by reason of demand or acceleration of the maturity of the Note or otherwise, shall the amount paid, or agreed to be paid ("Interest"), to Lender for the use, forbearance or retention of the money loaned under the Note exceed the maximum amount permissible under applicable law. If performance or fulfillment of any provision hereof or of any agreement between Borrower and Lender shall, at the time performance or fulfillment of such provision shall be due, exceed the limit for Interest prescribed by law or otherwise transcend the limit of validity prescribed by applicable law, then, the obligation to be performed or fulfilled shall be reduced to such limit, and if Lender shall ever receive anything of value deemed Interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive Interest shall be applied to the reduction of the principal balance owing under the Note in the inverse order of its maturity (whether or not then due) or, at the option of Lender, be paid to Borrower, and not to the payment of Interest. This Section will control all agreements between Borrower and Lender.

5.3 **Governing Law.** The terms and provisions of this Agreement will be governed by and construed in accordance with the laws of the State of Pennsylvania, except to the extent that any of such laws may now or hereafter be preempted by Federal law, in which case, such Federal law shall so govern and be controlling.

5.4 **Notices.** All notices, demands, requests or other communications to be sent hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of the same in person to the intended addressee, or by depositing the same with Federal Express or another reputable private courier service for next Business Day delivery, or by depositing the same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, in any event addressed to the intended addressee at its address set forth below (or at such other address as may, from time to time, be designated by such party as herein provided). All notices, demands and requests shall be effective upon such personal delivery or one (1) Business Day after being deposited with the private courier service, or three (3) Business Days after being deposited in the United States mail as required above. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given as herein required shall be deemed to be receipt of the notice, demand or request sent. By giving to the other party hereto prior written notice thereof in accordance with the provisions hereof, the parties hereto shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the United States.

Lender: WBF/CT Associates, LLC
 9 Waterfront Estates Dr.
 Lancaster, PA 17602

Borrower: Gary J. Dragul
c/o GDA Real Estate Management, Inc.
5690 DTC Boulevard, Suite 515
Greenwood Village, CO 80111

5.5 **Conflict; Severability.** In the event of any inconsistency between the provisions hereof and the provisions in any of the other Loan Documents, it is intended that the provisions of this Loan Agreement shall be controlling. A determination that any provision of this Agreement is unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Agreement to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

5.6 **Successors and Assigns.** The terms, provisions, indemnities, covenants and conditions hereof shall be binding upon Borrower and the successors and assigns of Borrower, including all successors in interest of Borrower in and to all or any part of the Property, and shall inure to the benefit of Lender, and his agents and their respective successors and assigns.

5.7 **Section Headings.** The headings of the sections and paragraphs of this Agreement are for convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.

5.8 **Counting of Days.** The term "days" when used herein shall mean calendar days. With respect to all of the Loan Documents, if any time period ends on a day which is not a Business Day, the period shall be deemed to end on the next succeeding Business Day. All references in the Loan Documents to a "day" or "date" shall be to a calendar day unless specifically referenced as a Business Day.

5.9 **Relationship of the Parties.** The relationship between Borrower and Lender is that of a borrower and a lender only and neither of those parties is, nor shall it hold itself out to be, the agent, employee, joint venturer or partner of the other party.

5.10 **No Representation.** By accepting delivery of any item required to be observed, performed or fulfilled or to be given to Lender pursuant to the Loan Documents, including, but not limited to, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision or condition thereof, and such acceptance of delivery thereof shall not be or constitute any warranty, consent or affirmation with respect thereto by Lender.

5.11 **Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, with the same effect as if all parties hereto had signed the same signature page. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more additional signature pages.

5.12 **Entire Agreement and Modifications.** This Agreement and the other Loan Documents contain the entire agreements between the parties relating to the subject matter hereof and thereof and all prior agreements relative hereto and thereto which are not contained herein or

therein are terminated. This Agreement and the other Loan Documents may not be amended, revised, waived, discharged, released or terminated orally but only by a written instrument or instruments executed by the party against which enforcement of the amendment, revision, waiver, discharge, release or termination is asserted. Any alleged amendment, revision, waiver, discharge, release or termination which is not so documented shall not be effective as to any party.

5.13 **Principles of Construction.** Defined terms used in this Agreement may be used interchangeably in singular or plural form, and pronouns are to be construed to cover all genders. All references to this Agreement or any agreement or instrument referred to in this Agreement means such agreement or instrument as originally executed and as thereafter amended, restated, replaced, supplemented or otherwise modified from time to time. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular subdivision; the words “Article” and “Section” refer to the entire article or section, as applicable and not to any particular subsection or other subdivision; and the words “include” or “including” are intended to be words of clarification and not limitation, and therefore mean “include, without limitation” or “including, without limitation” or “including, but not limited to”, as applicable. All references to a law or Legal Requirement include any amendment or modification to such law or Legal Requirement. All references to a Person include such Person’s permitted successors and assigns.

[NO FURTHER TEXT ON THIS PAGE]

EXHIBIT A
PROPERTY DESCRIPTION

Lower High Street 17, LLC

The real property owned and pledged by Lower High Street 17, LLC is described as follows:

43 & 44 Block 39 Evanston Third Filing,
known as No. 2311 S High Street, Denver, CO 80210

High Street Condo Project, LLC

The real property owned and pledged by High Street Condo Project, LLC is described as follows:

Lot 41 & 42 Block 39 Evanston Third Filing,
known as No. 2321 S High Street Denver CO 80210

Upper High Street 17, LLC

The real property owned and pledged by Upper High Street 17, LLC is described as follows:

Lot 39 & 40 Block 39 Evanston Third Filing,
known as No. 2329 S High Street Denver CO 80210

EXHIBIT B

DISBURSEMENT REQUEST

Borrower Name: Gary J. Dragul

Property Description: 2311 South High Street, Denver, CO 80210,
2321 South High Street, Denver, CO 80210 and
2329 South High Street, Denver, CO 80210

Amount of Disbursement Requested:

Description of work that has been completed:

Wire Instructions for Borrower.

Fortis Private Bank
1550 17th Street, Suite 100
Denver, CO 80202
ABA/routing number [REDACTED]

Beneficiary Account # [REDACTED]
Beneficiary Name: Gary J. Dragul
Beneficiary address: 5690 DTC Boulevard, Suite 515, Greenwood Village, CO 80111
Beneficiary phone # 303-221-5500

BORROWER:

Gary J. Dragul

Date: _____

PROMISSORY NOTE

Greenwood Village, CO

DATE FILED: August 12, 2017

FILING ID: C35EEEC937706

CASE NUMBER: 2019CV33315

This promissory note is executed by the undersigned ("**Borrower**") as of the ___ day of October, 2017 ("**Note**"). For value received, Borrower promises to pay to the order of WBF/CT Associates, LLC, a Pennsylvania limited liability company ("**Lender**"), at 9 Waterfront Estates Dr., Lancaster, PA 17602 or at such other address or place as Lender may from time to time designate in writing, the sum of Four Hundred Thousand and 00/100 Dollars (\$400,000.00) ("**Initial Loan Amount**"), plus interest on the unpaid principal balance in the amount of two percent (2%) per month, as further set forth herein. Borrower further agrees to pay to Lender a fee equal to Fifteen Thousand and 00/100 Dollars (\$15,000.00), and if such amount is not paid by Borrower to Lender at the time the Initial Loan Amount is advanced to Borrower then it shall be deducted from the Initial Loan Amount advanced to Borrower.

Lender may extend any additional principal amounts to Borrower pursuant to that certain Loan Agreement between Borrower and Lender of even date herewith ("**Loan Agreement**"), and in such event each additional extension of principal shall be an "**Additional Loan Amount**."

The Initial Loan Amount, and Additional Loan Amount, and any accrued and unpaid interest with respect thereto shall be due and payable by Borrower to Lender in a lump sum on the date that is five (5) months following the date the Initial Loan Amount is delivered to Borrower by Lender ("**Maturity Date**").

Notwithstanding anything to the contrary set forth herein, Borrower may extend the due date for payment of the Initial Loan Amount and of any Additional Loan Amount by two (2) months by delivering to Lender a payment equal to Seven Thousand and 00/100 Dollars (\$7,500.00).

This Note may be prepaid, in whole or in part, at any time without consent and without penalty, provided that if the Note is prepaid sooner than the Maturity Date such prepayment shall be accompanied by an amount equal to the difference between five (5) months' interest on the Initial Loan Amount and the amount of interest already paid to Lender by Borrower on the Initial Loan Amount. Any partial prepayment shall be applied to the principal portion of the monthly installments in the inverse order of their maturities. Any payment date falling on a Saturday, Sunday or holiday on which national banks located in Pennsylvania are not open for general banking business will be extended to the next business day.

Borrower waives presentment for payment, protest and demand, notice of protest, demand and dishonor and non-payment of this Note. The terms and provisions of this Note are intended to be and shall be governed, interpreted and construed pursuant to the laws of the State of Pennsylvania and venue for any legal action relating to the interpretation or enforcement of the provisions of this Note or the obligations arising hereunder shall be proper in Lancaster County, State of Pennsylvania.

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
(TD72-8-10) (Mandatory 1-11)

DATE FILED: August 29, 2019 9:32 AM

FILING ID: C35EEEC937706

CASE NUMBER: 2019CV33315

IF THIS FORM IS USED IN A CONSUMER CREDIT TRANSACTION, CONSULT LEGAL COUNSEL.

THIS IS A LEGAL INSTRUMENT. IF NOT UNDERSTOOD, LEGAL, TAX OR OTHER COUNSEL SHOULD BE CONSULTED BEFORE SIGNING.

SECOND DEED OF TRUST

(Due on Transfer – Strict)

THIS SECOND DEED OF TRUST (Deed of Trust) is made this 31 day of October, 2017, between Lower High Street 17, LLC, a Colorado limited liability company, High Street Condo Project, LLC, a Colorado limited liability company, and Upper High Street 17, LLC, a Colorado limited liability company (collectively, Pledgor), the address of each being 5690 DTC Boulevard, Suite 515, Greenwood Village, CO 80111; and the Public Trustee of the County in which the Property (see § 1) is situated (Trustee); for the benefit of WBF/CT Associates, LLC, a Pennsylvania limited liability company (Lender), whose address is 9 Waterfront Estates Dr., Lancaster, PA 17602.

Pledgor and Lender covenant and agree as follows:

1. **Property in Trust.** Pledgor Lower High Street 17, LLC, in consideration of the indebtedness herein recited and the trust herein created, hereby grants and conveys to Trustee in trust, with power of sale, the following legally described property located in the County of Arapahoe, State of Colorado:

43 & 44 Block 39 Evanston Third Filing,
City and County of Denver, State of Colorado

known as No. 2311 South High Street Denver CO 80210 (Property Address),

Street Address City State Zip

together with all its appurtenances (Property 1).

Pledgor High Street Condo Project, LLC, in consideration of the indebtedness herein recited and the trust herein created, hereby grants and conveys to Trustee in trust, with power of sale, the following legally described property located in the County of Arapahoe, State of Colorado:

Lot 41 & 42 Block 39 Evanston Third Filing,
City and County of Denver, State of Colorado

known as No. 2321 South High Street Denver CO 80210 (Property Address),

Street Address City State Zip

together with all its appurtenances (Property 2).

Pledgor High Street Condo Project, LLC, in consideration of the indebtedness herein recited and the trust herein created, hereby grants and conveys to Trustee in trust, with power of sale, the following legally described property located in the County of Arapahoe, State of Colorado:

Lot 39 & 40 Block 39 Evanston Third Filing,
City and County of Denver, State of Colorado

known as No. 2329 South High Street Denver CO 80210 (Property Address),

Street Address City State Zip

together with all its appurtenances (Property 3).

For purposes of this Deed of Trust, Property 1, Property 2 and Property 3 are collective referred to herein as the "Property."

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2. Note: Other Obligations Secured. This Deed of Trust is given to secure to Lender:

2.1. the repayment of the indebtedness evidenced by that certain promissory note (Note) dated October 31, 2017 in the initial principal sum of Four Hundred Thousand and 00/100 Dollars (U.S. \$400,000.00), and subject to additional advances up to Three Hundred Fifty Thousand and 00/100 Dollars (U.S. \$350,000.00), payable by Gary J. Dragul (Borrower), an affiliate of Pledgor, to Lender;

2.2. the payment of all sums, with interest thereon at 10% per annum, disbursed by Lender in accordance with this Deed of Trust to protect the security of this Deed of Trust; and

2.3. the performance of the covenants and agreements of Pledgor herein contained.

3. Title. Pledgor covenants that Pledgor owns and has the right to grant and convey the Property, and warrants title to the same, subject to general real estate taxes for the current year, easements of record or in existence, and recorded declarations, restrictions, reservations and covenants, if any, as of this date; and subject to the debt and security interests of Pledgor's current lender.

4. Payment of Principal and Interest. Borrower is to promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, and late charges as provided in the Note and is to perform all of Borrower's other covenants contained in the Note, and this Deed of Trust is given as security for such performance by Borrower.

5. Application of Payments. Any payments received by Lender from Pledgor as payment of the Note shall be applied by Lender first in payment of amounts due pursuant to § 23 (Escrow Funds for Taxes and Insurance), then to amounts disbursed by Lender pursuant to § 9 (Protection of Lender's Security), and the balance in accordance with the terms and conditions of the Note.

6. Prior Mortgages and Deeds of Trust; Charges; Liens. Pledgor shall perform all of Pledgor's obligations under any prior deed of trust and any other prior liens. Pledgor shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property which may have or attain a priority over this Deed of Trust, and leasehold payments or ground rents, if any, in the manner set out in § 23 (Escrow Funds for Taxes and Insurance) or, if not required to be paid in such manner, by Pledgor making payment when due, directly to the payee thereof. Despite the foregoing, Pledgor shall not be required to make payments otherwise required by this section if Pledgor, after notice to Lender, shall in good faith contest such obligation by, or defend enforcement of such obligation in, legal proceedings which operate to prevent the enforcement of the obligation or forfeiture of the Property or any part thereof, only upon Pledgor making all such contested payments and other payments as ordered by the court to the registry of the court in which such proceedings are filed.

7. Property Insurance. Pledgor shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire or hazards included within the term "extended coverage" in an amount at least equal to the lesser of (a) the insurable value of the Property or (b) an amount sufficient to pay the sums secured by this Deed of Trust as well as any prior encumbrances on the Property. All of the foregoing shall be known as "Property Insurance."

The insurance carrier providing the insurance shall be qualified to write Property Insurance in Colorado and shall be chosen by Pledgor subject to Lender's right to reject the chosen carrier for reasonable cause. All insurance policies and renewals thereof shall include a standard mortgage clause in favor of Lender, and shall provide that the insurance carrier shall notify Lender at least ten (10) days before cancellation, termination or any material change of coverage. Insurance policies shall be furnished to Lender at or before closing. Lender shall have the right to hold the policies and renewals thereof.

In the event of loss, Pledgor shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Pledgor.

Insurance proceeds shall be applied to restoration or repair of the Property damaged, provided said restoration or repair is economically feasible and the security of this Deed of Trust is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Deed of Trust would be impaired, the insurance proceeds shall be applied to the sums secured by this Deed of Trust, with the excess, if any, paid to Pledgor. If the Property is abandoned by Pledgor, or if Pledgor fails to respond to Lender within 30 days from the date notice is given in accordance with § 16 (Notice) by Lender to Pledgor that the insurance carrier offers to settle a claim for insurance benefits, Lender is authorized to collect and apply the insurance proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

Any such application of proceeds to principal shall not extend or postpone the due date of the installments referred to in §§ 4 (Payment of Principal and Interest) and 23 (Escrow Funds for Taxes and Insurance) or change the amount of such installments. Notwithstanding anything herein to the contrary, if under § 18 (Acceleration; Foreclosure; Other Remedies) the Property is acquired by Lender, all right, title and interest of Pledgor in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

All of the rights of Pledgor and Lender hereunder with respect to insurance carriers, insurance policies and insurance proceeds are subject to the rights of any holder of a prior deed of trust with respect to said insurance carriers, policies and proceeds.

112 **8. Preservation and Maintenance of Property.** Pledgor shall keep the Property in good repair and shall not commit
113 waste or permit impairment or deterioration of the Property and shall comply with the provisions of any lease if this Deed of Trust
114 is on a leasehold. Pledgor shall perform all of Pledgor's obligations under any declarations, covenants, by-laws, rules, or other
115 documents governing the use, ownership or occupancy of the Property.

116 **9. Protection of Lender's Security.** Except when Pledgor has exercised Pledgor's rights under § 6 above, if Pledgor
117 fails to perform the covenants and agreements contained in this Deed of Trust, or if a default occurs in a prior lien, or if any action
118 or proceeding is commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, with
119 notice to Pledgor if required by law, may make such appearances, disburse such sums and take such action as is necessary to
120 protect Lender's interest, including, but not limited to:

121 **9.1.** any general or special taxes or ditch or water assessments levied or accruing against the Property;

122 **9.2.** the premiums on any insurance necessary to protect any improvements comprising a part of the Property;

123 **9.3.** sums due on any prior lien or encumbrance on the Property;

124 **9.4.** if the Property is a leasehold or is subject to a lease, all sums due under such lease;

125 **9.5.** the reasonable costs and expenses of defending, protecting, and maintaining the Property and Lender's interest
126 in the Property, including repair and maintenance costs and expenses, costs and expenses of protecting and securing the Property,
127 receiver's fees and expenses, inspection fees, appraisal fees, court costs, attorney fees and costs, and fees and costs of an attorney
128 in the employment of Lender or holder of the certificate of purchase;

129 **9.6.** all other costs and expenses allowable by the evidence of debt or this Deed of Trust; and

130 **9.7.** such other costs and expenses which may be authorized by a court of competent jurisdiction.

131 Pledgor hereby assigns to Lender any right Pledgor may have by reason of any prior encumbrance on the Property or by law
132 or otherwise to cure any default under said prior encumbrance.

133 Any amounts disbursed by Lender pursuant to this § 9, with interest thereon, shall become additional indebtedness of Pledgor
134 secured by this Deed of Trust. Such amounts shall be payable upon notice from Lender to Pledgor requesting payment thereof, and
135 Lender may bring suit to collect any amounts so disbursed plus interest specified in § 2.2 (Note: Other Obligations Secured). Nothing
136 contained in this § 9 shall require Lender to incur any expense or take any action hereunder.

137 **10. Inspection.** Lender may make or cause to be made reasonable entries upon and inspection of the Property, provided
138 that Lender shall give Pledgor notice prior to any such inspection specifying reasonable cause therefore related to Lender's interest
139 in the Property.

140 **11. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any
141 condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and
142 shall be paid to Lender as herein provided. However, all of the rights of Pledgor and Lender hereunder with respect to such
143 proceeds are subject to the rights of any holder of a prior deed of trust.

144 In the event of a total taking of the Property, the proceeds shall be applied to the sums secured by this Deed of Trust, with the
145 excess, if any, paid to Pledgor. In the event of a partial taking of the Property, the proceeds remaining after taking out any part of
146 the award due any prior lien holder (net award) shall be divided between Lender and Pledgor, in the same ratio as the amount of
147 the sums secured by this Deed of Trust immediately prior to the date of taking bears to Pledgor's equity in the Property
148 immediately prior to the date of taking. Pledgor's equity in the Property means the fair market value of the Property less the
149 amount of sums secured by both this Deed of Trust and all prior liens (except taxes) that are to receive any of the award, all at the
150 value immediately prior to the date of taking.

151 If the Property is abandoned by Pledgor or if, after notice by Lender to Pledgor that the condemnor offers to make an award
152 or settle a claim for damages, Pledgor fails to respond to Lender within 30 days after the date such notice is given, Lender is
153 authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums
154 secured by this Deed of Trust.

155 Any such application of proceeds to principal shall not extend or postpone the due date of the installments referred to in §§ 4
156 (Payment of Principal and Interest) and 23 (Escrow Funds for Taxes and Insurance) nor change the amount of such installments.

157 **12. Pledgor not Released.** Extension of the time for payment or modification of amortization of the sums secured by this
158 Deed of Trust granted by Lender to any successor in interest of Pledgor shall not operate to release, in any manner, the liability of
159 the original Pledgor, nor Pledgor's successors in interest, from the original terms of this Deed of Trust. Lender shall not be required
160 to commence proceedings against such successor or refuse to extend time for payment or otherwise modify amortization of the sums
161 secured by this Deed of Trust by reason of any demand made by the original Pledgor nor Pledgor's successors in interest.

162 **13. Forbearance by Lender Not a Waiver.** Any forbearance by Lender in exercising any right or remedy hereunder, or
163 otherwise afforded by law, shall not be a waiver or preclude the exercise of any such right or remedy.

164 **14. Remedies Cumulative.** Each remedy provided in the Note and this Deed of Trust is distinct from and cumulative to
165 all other rights or remedies under the Note and this Deed of Trust or afforded by law or equity, and may be exercised concurrently,
166 independently or successively.

167 **15. Successors and Assigns Bound; Joint and Several Liability; Captions.** The covenants and agreements herein
168 contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Pledgor, subject
169 to the provisions of § 24 (Transfer of the Property; Assumption). All covenants and agreements of Pledgor shall be joint and
170 several. The captions and headings of the sections in this Deed of Trust are for convenience only and are not to be used to interpret
171 or define the provisions hereof.

172 **16. Notice.** Except for any notice required by law to be given in another manner, (a) any notice to Pledgor provided for
173 in this Deed of Trust shall be in writing and shall be given and be effective upon (1) delivery to Pledgor or (2) mailing such notice
174 by first class U.S. mail, addressed to Pledgor at Pledgor's address stated herein or at such other address as Pledgor may designate
175 by notice to Lender as provided herein, and (b) any notice to Lender shall be in writing and shall be given and be effective upon
176 (1) delivery to Lender or (2) mailing such notice by first class U.S. mail, to Lender's address stated herein or to such other address
177 as Lender may designate by notice to Pledgor as provided herein. Any notice provided for in this Deed of Trust shall be deemed
178 to have been given to Pledgor or Lender when given in any manner designated herein.

179 **17. Governing Law; Severability.** The Note and this Deed of Trust shall be governed by the law of Colorado. In the
180 event that any provision or clause of this Deed of Trust or the Note conflicts with the law, such conflict shall not affect other
181 provisions of this Deed of Trust or the Note which can be given effect without the conflicting provision, and to this end the
182 provisions of the Deed of Trust and Note are declared to be severable.

183 **18. Acceleration; Foreclosure; Other Remedies.** Except as provided in § 24 (Transfer of the Property; Assumption),
184 upon Pledgor's breach of any covenant or agreement of Pledgor in this Deed of Trust, or upon any default in a prior lien upon the
185 Property, (unless Pledgor has exercised Pledgor's rights under § 6 above), at Lender's option, all of the sums secured by this Deed
186 of Trust shall be immediately due and payable (Acceleration). To exercise this option, Lender may invoke the power of sale and
187 any other remedies permitted by law. Lender shall be entitled to collect all reasonable costs and expenses incurred in pursuing the
188 remedies provided in this Deed of Trust, including, but not limited to, reasonable attorney's fees.

189 If Lender invokes the power of sale, Lender shall give written notice to Trustee of such election. Trustee shall give such
190 notice to Pledgor of Pledgor's rights as is provided by law. Trustee shall record a copy of such notice and shall cause publication
191 of the legal notice as required by law in a legal newspaper of general circulation in each county in which the Property is situated,
192 and shall mail copies of such notice of sale to Pledgor and other persons as prescribed by law. After the lapse of such time as may
193 be required by law, Trustee, without demand on Pledgor, shall sell the Property at public auction to the highest bidder for cash at
194 the time and place (which may be on the Property or any part thereof as permitted by law) in one or more parcels as Trustee may
195 think best and in such order as Trustee may determine. Lender or Lender's designee may purchase the Property at any sale. It
196 shall not be obligatory upon the purchaser at any such sale to see to the application of the purchase money.

197 Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale,
198 including, but not limited to, reasonable Trustee's and attorney's fees and costs of title evidence; (b) to all sums secured by this
199 Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto.

200 **19. Pledgor's Right to Cure Default.** Whenever foreclosure is commenced for nonpayment of any sums due hereunder,
201 the owners of the Property or parties liable hereon shall be entitled to cure said defaults by paying all delinquent principal and
202 interest payments due as of the date of cure, costs, expenses, late charges, attorney's fees and other fees all in the manner provided
203 by law. Upon such payment, this Deed of Trust and the obligations secured hereby shall remain in full force and effect as though
204 no Acceleration had occurred, and the foreclosure proceedings shall be discontinued.

205 **20. Assignment of Rents; Appointment of Receiver; Lender in Possession.** As additional security hereunder, subject
206 to any prior deed of trust conveying such rights to Pledgor's prior lenders, Pledgor hereby assigns to Lender the rents of the
207 Property; however, Pledgor shall, prior to Acceleration under § 18 (Acceleration; Foreclosure; Other Remedies) or abandonment of
208 the Property, have the right to collect and retain such rents as they become due and payable.

209 Lender or the holder of the Trustee's certificate of purchase shall be entitled to a receiver for the Property after Acceleration
210 under § 18 (Acceleration; Foreclosure; Other Remedies), and shall also be so entitled during the time covered by foreclosure
211 proceedings and the period of redemption, if any; and shall be entitled thereto as a matter of right without regard to the solvency or
212 insolvency of Pledgor or of the then owner of the Property, and without regard to the value thereof. Such receiver may be appointed
213 by any Court of competent jurisdiction upon ex parte application and without notice; notice being hereby expressly waived.

214 Upon Acceleration under § 18 (Acceleration; Foreclosure; Other Remedies) or abandonment of the Property, Lender, in
215 person, by agent or by judicially-appointed receiver, shall be entitled to enter upon, take possession of and manage the Property
216 and to collect the rents of the Property including those past due. All rents collected by Lender or the receiver shall be applied, first
217 to payment of the costs of preservation and management of the Property, second to payments due upon prior liens, and then to the
218 sums secured by this Deed of Trust. Lender and the receiver shall be liable to account only for those rents actually received.

219 **21. Release.** Upon payment of all sums secured by this Deed of Trust, Lender shall cause Trustee to release this Deed of
220 Trust. Pledgor shall pay all costs of recordation and shall pay the statutory Trustee's fees.

221 **22. Waiver of Exemptions.** Pledgor hereby waives all right of homestead and any other exemption in the Property under
222 state or federal law presently existing or hereafter enacted.

223 **23. Escrow Funds for Taxes and Insurance.** This § 23 is not applicable.

224 **24. Transfer of the Property; Assumption.** The following events shall be referred to herein as a "Transfer": (i) a transfer
225 or conveyance of title (or any portion thereof, legal or equitable) of the Property (or any part thereof or interest therein); (ii) the
226 execution of a contract or agreement creating a right to title (or any portion thereof, legal or equitable) in the Property (or any part
227 thereof or interest therein); (iii) or an agreement granting a possessory right in the Property (or any portion thereof), in excess of
228 3 years; (iv) a sale or transfer of, or the execution of a contract or agreement creating a right to acquire or receive, more than fifty
229 percent (50%) of the controlling interest or more than fifty percent (50%) of the beneficial interest in Pledgor and (v) the
230 reorganization, liquidation or dissolution of Pledgor. Not to be included as a Transfer are (x) the creation of a lien or encumbrance
231 subordinate to this Deed of Trust; (y) the creation of a purchase money security interest for household appliances; or (z) a transfer
232 by devise, descent or by operation of the law upon the death of a joint tenant. At the election of Lender, in the event of each and
233 every Transfer:

234 **24.1.** All sums secured by this Deed of Trust shall become immediately due and payable (Acceleration).

235 **24.2.** If a Transfer occurs and should Lender not exercise Lender's option pursuant to this § 24 to Accelerate,
236 Transferee shall be deemed to have assumed all of the obligations of Pledgor under this Deed of Trust including all sums secured
237 hereby whether or not the instrument evidencing such conveyance, contract or grant expressly so provides. This covenant shall
238 run with the Property and remain in full force and effect until said sums are paid in full. Lender may without notice to Pledgor
239 deal with Transferee in the same manner as with Pledgor with reference to said sums including the payment or credit to Transferee
240 of undisbursed reserve Funds on payment in full of said sums, without in any way altering or discharging Pledgor's liability
241 hereunder for the obligations hereby secured.

242 **24.3.** Should Lender not elect to Accelerate upon the occurrence of such Transfer then, subject to § 24.2 above, the
243 mere fact of a lapse of time or the acceptance of payment subsequent to any of such events, whether or not Lender had actual or
244 constructive notice of such Transfer, shall not be deemed a waiver of Lender's right to make such election nor shall Lender be
245 estopped therefrom by virtue thereof. The issuance on behalf of Lender of a routine statement showing the status of the loan,
246 whether or not Lender had actual or constructive notice of such Transfer, shall not be a waiver or estoppel of Lender's said rights.

247 **25. Pledgor's Copy.** Pledgor acknowledges receipt of a copy of the Note and this Deed of Trust.

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EXECUTED BY PLEDGOR

Lower High Street 17, LLC,
a Colorado limited liability company

By: GDA Real Estate Management, Inc.,
a Colorado corporation

By: *Gary J. Dragul*
Gary J. Dragul, President

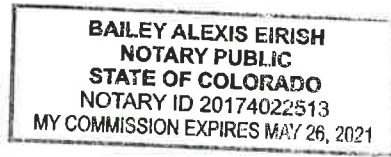
250 STATE OF COLORADO)
251) ss.
252 County of ARAPAHOE)
253

254 The foregoing instrument was acknowledged before me this 30th day of October, 2017, by Gary J. Dragul, President of
255 GDA Real Estate Management, Inc., Manager of Pledgor.
256

257 Witness my hand and official seal.

258 My commission expires: May 26, 2021

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Bailey Alexis Eirish
Notary Public

High Street Condo Project, LLC,
a Colorado limited liability company

By: GDA Real Estate Management, Inc.,
a Colorado corporation

By: *Gary J. Dragul*
Gary J. Dragul, President

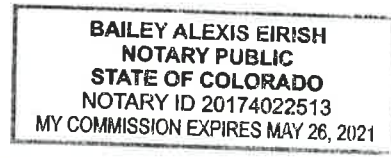
264 STATE OF COLORADO)
265) ss.
266 County of ARAPAHOE)
267

268 The foregoing instrument was acknowledged before me this 30th day of October, 2017, by Gary J. Dragul, President of
269 GDA Real Estate Management, Inc., Manager of Pledgor.
270

271 Witness my hand and official seal.

272 My commission expires: May 26, 2021

273
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275




Bailey Alexis Eirish
Notary Public

276

Upper High Street 17, LLC,
a Colorado limited liability company

By: GDA Real Estate Management, Inc.,
a Colorado corporation

By: 
Gary J. Dragul, President

277 STATE OF COLORADO)
278) ss.
279 County of ARAPAHOE)
280

281 The foregoing instrument was acknowledged before me this 30th day of October, 2017, by Gary J. Dragul, President of
282 GDA Real Estate Management, Inc., Manager of Pledgor.

283
284 Witness my hand and official seal.

285 My commission expires: May 26, 2021

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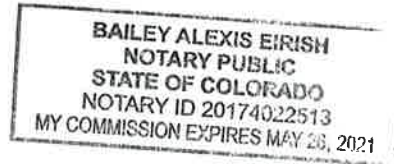
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Notary Public

MODIFICATION OF LOAN AGREEMENT

This MODIFICATION OF LOAN AGREEMENT (this "Modification Agreement") is made as of the 1st day of January, 2018, by and between Gary N. Dragun ("Borrower"), having an address at 5690 DTC Boulevard, Suite 515, Greenwood Village, Colorado 80111, and WBF/CT Associates, LLC, a Pennsylvania limited liability company ("Lender"), having an address at 9 Waterfront Estates Dr., Lancaster, PA 17602.

DATE FILED: August 29, 2019 9:32 AM
FILING ID: CSSEBEC937786
Case Number: 2018-000003

RECITALS

A. Borrower and Lender are parties to that certain Loan Agreement, executed by Borrower on October 30, 2017 ("Original Loan Agreement") pursuant to which Borrower borrowed from Lender Seven Hundred Fifty Thousand and 00/100 Dollars (\$750,000.00).

B. Borrower and Lender wish to confirm the release of the Mortgage on each Property granted by each Pledgor pursuant to the Original Loan Agreement and the substitution of other real property by other pledgers pursuant to new Deeds of Trust as set forth herein.

C. Borrower will cause each of 2195 South Bellaire 16, LLC, a Colorado limited liability company, 2196 South Ash 16, LLC, a Colorado limited liability company, 2186 South Ash 16, LLC, a Colorado limited liability company, 2176 South Ash 16, LLC, a Colorado limited liability company, 2175 South Bellaire 16, LLC, a Colorado limited liability company, 2166 South Ash 17, LLC, a Colorado limited liability company, 7842 East Briarwood 16, LLC, a Colorado limited liability company, 6316 East Fair 16, LLC, a Colorado limited liability company (collectively, "New Pledgor"), pursuant to the terms of those certain Deeds of Trust, dated as of the date hereof ("New Mortgage"), to grant to Lender a second priority security interest in the real property owned by each Pledgor and described in each New Mortgage and in Exhibit A attached hereto and made a part hereof ("New Property"). All capitalized terms not defined herein shall have the respective meanings assigned to them in the Original Loan Agreement.

NOW, THEREFORE, in consideration of the covenants set forth in this Modification Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows.

ARTICLE I SUBSTITUTION OF COLLATERAL

1.1 **Substitution of Collateral.** Borrower agrees it will cause each New Pledgor to grant to Lender a second priority security interest in each New Property, and to execute and deliver to Lender a New Mortgage for each New Property as described in each New Mortgage and in Exhibit A, as applicable to each New Pledgor.

1.2 **Indebtedness.** This Modification Agreement is executed, acknowledged, and delivered by Borrower to secure and enforce the Indebtedness, the principal amount of which will be Five Hundred Thousand and 00/100 Dollars (\$500,000.00) following Borrower's principal payment to Lender of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00),

plus all accrued and earned interest, or in such other amount as it may exist from time to time, taking into account any disbursements or prepayments made in accordance with the Original Loan Agreement or the written agreement of Borrower and Lender.

ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS OF BORROWER

For the purpose of further securing the Debt and all other obligations under the Loan Documents, for so long as the Debt or any part thereof remains unpaid, Borrower represents, warrants, covenants and agrees as follows:

2.1 **Representations, Warranties and Covenants of Borrower.** Borrower, for itself and its successors and assigns, does hereby represent, warrant and covenant to and with Lender, his successors and assigns that:

A. **Authorization.** Borrower has taken all necessary action for the execution, delivery and performance of this Modification Agreement.

B. **Enforceability.** All of the Loan Documents constitute valid, legal and binding obligations of Borrower and are fully enforceable against Borrower in accordance with their terms by Lender and its successors, transferees and assigns.

C. **No Defenses.** To Borrower's knowledge, the Note, the Mortgage, this Modification Agreement and the other Loan Documents are not subject to any right of rescission, offset, counterclaim or defense, including, without limitation, any valid offset, defense, counterclaim or right based on intentional fraud by Lender in connection with the origination of the Loan, nor would the operation of any of the terms of the Note, the Mortgage, this Modification Agreement or any of the other Loan Documents, or the exercise of any right thereunder, render this Modification Agreement unenforceable, in whole or in part, or subject to any right of rescission, offset, counterclaim or defense, including, without limitation, the defense of usury.

D. **Compliance with Applicable Laws and Regulations.** Each New Property is in compliance with, and shall remain in compliance with, all applicable federal, state, county, municipal and other governmental statutes, laws, rules, regulations, ordinances and easements, covenants, restrictions and conditions now or hereafter relating to the ownership, construction, use or operation of each New Property.

E. **No Litigation.** There are no pending, filed, threatened or, to Borrower's knowledge, contemplated judicial, governmental, administrative, mediation or arbitration actions, suits or proceedings, arbitrations or governmental investigations against any New Property (including, without limitation, Borrower's interest therein) or Borrower, an adverse outcome of which would, to Borrower's knowledge and belief, materially and adversely affect each New Pledgor's right, title and interest in and to each New Property.

F. **Title.** Except for the first lien of each first priority lender (the "**First Liens**"), each New Pledgor has good, marketable and indefeasible fee simple title to each New Property, free and clear of all Liens, subject only to (i) the First Liens, (ii) the lien of current real property taxes, water charges, sewer rents and assessments not yet due and payable; (iii) covenants, conditions and restrictions, rights of way, easements and other matters of public record; and (iv) the rights of tenants (as tenants only) under Leases (excepting therefrom all pre-printed and/or standard exceptions, the "**Permitted Exceptions**"). Further, each New Pledgor

has full power and lawful authority to grant, bargain, sell, convey, assign, transfer, encumber and mortgage its interest in each New Property in the manner and form contemplated by each New Mortgage.

G. No Other Mortgage Liens. Except for the First Liens, there are no senior or junior mortgages or mortgage liens encumbering each New Property or any portion thereof, other than each New Mortgage, as applicable.

H. Lien Priority. Upon the execution by Borrower and the recording of each New Mortgage, Lender will have a valid, perfected, second priority lien on each New Property subject to the First Liens but to no other no liens, charges or encumbrances other than the Permitted Exceptions. Each New Mortgage also creates a valid lien or security interest in the Rents and Profits, subject only to the First Liens and the license granted to Borrower under each New Mortgage, in certain circumstances, to exercise certain rights and to perform certain obligations of the lessor under the Leases.

I. Taxes Paid. Each New Property is free from delinquent Taxes.

J. No Labor or Materialmen Claims. All parties furnishing labor and materials have been paid in full and, except for such liens or claims insured against by the policy of title insurance to be issued in connection with the Loan, there are no mechanics, laborers, materialmen's or similar liens or claims outstanding for work, labor or materials affecting each New Property, whether prior to, equal with or subordinate to the lien of each New Mortgage. There are no claims for payment for work, labor or materials affecting any New Property which are or may become a lien prior to, or of equal priority with, the liens created by the New Mortgages.

2.2 Defense of Title. Borrower shall promptly notify Lender in writing of any litigation or litigation threatened in writing affecting any New Property, or any other demand or claim which, if enforced, could impair or could reasonably threaten to impair Lender's security interest under each New Mortgage. If, while each New Mortgage is in force, the title to any New Property or the interest of each Pledgor therein shall be the subject, directly or indirectly, of any action at law or in equity, or be attached directly or indirectly, or endangered, clouded or adversely affected in any manner, Borrower, at Borrower's sole cost and expense, shall take all necessary and proper steps for the defense of said title or interest, including, but not limited to, the employment of counsel reasonably approved by Lender, the prosecution or defense of litigation, and the compromise or discharge of claims made against said title or interest.

2.3 Performance of Obligations. Borrower shall cause each New Pledgor to promptly and strictly observe, perform, comply with and discharge all obligations, covenants and agreements required of each New Pledgor in connection with any document or instrument affecting title to each New Property, or any part thereof, regardless of whether such document or instrument is superior or subordinate to each New Mortgage.

2.4 Insurance. Borrower shall cause each New Pledgor, at its or Borrower's expense, to maintain in full force and effect on each New Property at all times while each New Mortgage continues in effect and/or the Loan otherwise remains outstanding liability insurance covering each New Property in commercially reasonable amounts and with commercially reasonable deductibles. Borrower shall, upon reasonable request, deliver to Lender evidence that said insurance has been prepaid for the applicable term and are in effect. Borrower shall have Lender named as an additional insured on any such insurance policy.

2.5 Payment of Taxes. Borrower shall pay or cause to be paid all Taxes which are or may become a lien on each New Property or which are assessed against or imposed upon each

New Property. Borrower shall upon reasonable request by Lender furnish Lender with receipts (or if receipts are not immediately available, with copies of canceled checks or other reasonable documentation evidencing payment with receipts to follow promptly after they become available) showing payment of such Taxes prior to the applicable delinquency date therefor. Notwithstanding the foregoing, Borrower may in good faith, by appropriate proceedings and upon notice to Lender, contest the validity, applicability or amount of any asserted tax or assessment so long as (a) no Event of Default is continuing, and (b) such contest is diligently pursued.

2.6 **Casualty and Condemnation.** Borrower shall give Lender prompt written notice (which shall in no event be greater than ten (10) days following such occurrence) of the occurrence of any material casualty affecting, or the institution of any proceedings for eminent domain or for the condemnation of, each New Property or any portion thereof.

2.7 **Liens.** Except for the First Liens and as provided herein, Borrower shall not create, incur, assume or (with the exception of Permitted Exceptions) suffer to exist any Lien on any New Property, or any portion thereof, or permit any such action to be taken. Borrower shall pay when due, or cause each New Pledgor to pay when due, all claims and demands of mechanics, materialmen, laborers and others for any work performed or materials delivered for each New Property; provided, however, that, Borrower shall have the right to contest in good faith any such claim or demand, so long as it does so diligently, by appropriate proceedings and without prejudice to Lender and provided that neither any New Property nor any interest therein would be in any danger of sale, loss or forfeiture as a result of such proceeding or contest.

2.8 **Payment of Utilities, Assessments, Charges, Etc.** Borrower shall pay or cause to be paid when due all utility charges which are incurred by Borrower or which may become a charge or lien against any portion of each New Property for gas, electricity, water and sewer services furnished to each New Property and all other assessments or charges of a similar nature, and all assessments payable pursuant to any easements, restrictive covenants and similar agreements with respect to each New Property, whether public or private, affecting the Property or any portion thereof, whether or not such assessments or charges are or may become liens thereon.

2.9 **Waste; Alteration of Improvements.** Borrower shall not commit, suffer or permit any waste on any New Property nor take any actions that might invalidate any insurance carried on any New Property. Borrower shall maintain each New Property, or cause each New Property to be maintained, in good condition and repair. No part of the Improvements may be removed, demolished or materially altered, without the prior written consent of Lender. Without the prior written consent of Lender, Borrower shall not commence construction of any improvements on any New Property other than improvements required for the maintenance or repair of any New Property.

2.10 **Compliance with Laws.** Borrower shall at all times, and shall cause each New Pledgor at all times to, comply with all statutes, ordinances, orders, regulations and other governmental requirements now or hereafter relating to the ownership, construction, use or operation of each New Property.

ARTICLE III MISCELLANEOUS TERMS AND CONDITIONS

3.1 **Governing Law.** The terms and provisions of this Modification Agreement will be governed by and construed in accordance with the laws of the State of Pennsylvania, except to the extent that any of such laws may now or hereafter be preempted by Federal law, in which case, such Federal law shall so govern and be controlling.

3.2 **Notices.** All notices, demands, requests or other communications to be sent hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of the same in person to the intended addressee, or by depositing the same with Federal Express or another reputable private courier service for next Business Day delivery, or by depositing the same in the United States mail, postage prepaid, registered or certified mail, return receipt requested, in any event addressed to the intended addressee at its address set forth below (or at such other address as may, from time to time, be designated by such party as herein provided). All notices, demands and requests shall be effective upon such personal delivery or one (1) Business Day after being deposited with the private courier service, or three (3) Business Days after being deposited in the United States mail as required above. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given as herein required shall be deemed to be receipt of the notice, demand or request sent. By giving to the other party hereto prior written notice thereof in accordance with the provisions hereof, the parties hereto shall have the right from time to time to change their respective addresses and each shall have the right to specify as its address any other address within the United States.

Lender: WBF/CT Associates, LLC
 9 Waterfront Estates Dr.
 Lancaster, PA 17602

Borrower: Gary J. Dragul
 c/o GDA Real Estate Management, Inc.
 5690 DTC Boulevard, Suite 515
 Greenwood Village, CO 80111

3.3 **Conflict; Severability.** In the event of any inconsistency between the provisions hereof and the provisions in any of the other Loan Documents, it is intended that the provisions of this Modification Agreement shall be controlling. A determination that any provision of this Modification Agreement is unenforceable or invalid shall not affect the enforceability or validity of any other provision, and any determination that the application of any provision of this Modification Agreement to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

3.4 **Successors and Assigns.** The terms, provisions, indemnities, covenants and conditions hereof shall be binding upon Borrower and the successors and assigns of Borrower, including all successors in interest of Borrower in and to all or any part of the Property, and shall inure to the benefit of Lender, and his agents and their respective successors and assigns.

3.5 **Section Headings.** The headings of the sections and paragraphs of this Modification Agreement are for convenience of reference only, are not to be considered a part hereof and shall not limit or otherwise affect any of the terms hereof.

3.6 **Counting of Days.** The term "days" when used herein shall mean calendar days. With respect to all of the Loan Documents, if any time period ends on a day which is not a Business Day, the period shall be deemed to end on the next succeeding Business Day. All references in the Loan Documents to a "day" or "date" shall be to a calendar day unless specifically referenced as a Business Day.

3.7 **Relationship of the Parties.** The relationship between Borrower and Lender is that of a borrower and a lender only and neither of those parties is, nor shall it hold itself out to be, the agent, employee, joint venturer or partner of the other party.

3.8 **No Representation.** By accepting delivery of any item required to be observed, performed or fulfilled or to be given to Lender pursuant to the Loan Documents, including, but not limited to, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision or condition thereof, and such acceptance of delivery thereof shall not be or constitute any warranty, consent or affirmation with respect thereto by Lender.

3.9 **Counterparts.** This Modification Agreement may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, with the same effect as if all parties hereto had signed the same signature page. Any signature page of this Modification Agreement may be detached from any counterpart of this Modification Agreement without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Modification Agreement identical in form hereto but having attached to it one or more additional signature pages.

3.10 **Entire Agreement and Modifications.** This Modification Agreement and the other Loan Documents contain the entire agreements between the parties relating to the subject matter hereof and thereof and all prior agreements relative hereto and thereto which are not contained herein or therein are terminated. This Modification Agreement and the other Loan Documents may not be amended, revised, waived, discharged, released or terminated orally but only by a written instrument or instruments executed by the party against which enforcement of the amendment, revision, waiver, discharge, release or termination is asserted. Any alleged amendment, revision, waiver, discharge, release or termination which is not so documented shall

not be effective as to any party.

3.11 **Principles of Construction.** Defined terms used in this Modification Agreement may be used interchangeably in singular or plural form, and pronouns are to be construed to cover all genders. All references to this Modification Agreement or any agreement or instrument referred to in this Modification Agreement means such agreement or instrument as originally executed and as thereafter amended, restated, replaced, supplemented or otherwise modified from time to time. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Modification Agreement as a whole and not to any particular subdivision; the words “Article” and “Section” refer to the entire article or section, as applicable and not to any particular subsection or other subdivision; and the words “include” or “including” are intended to be words of clarification and not limitation, and therefore mean “include, without limitation” or “including, without limitation” or “including, but not limited to”, as applicable. All references to a law or Legal Requirement include any amendment or modification to such law or Legal Requirement. All references to a Person include such Person’s permitted successors and assigns.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, Borrower and Lender have executed this Modification Agreement as of the day and year first above written.

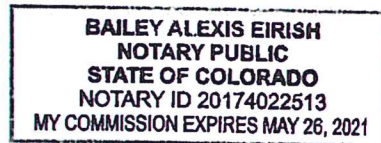
BORROWER:

Gary J Dragul by Elizabeth Goll as attorney in fact
Gary J. Dragul

STATE OF COLORADO)
) ss.
COUNTY OF ARAPAHOE)

The foregoing instrument was acknowledged before me this 9th day of January, 2018, by Gary J. Dragul. by Elizabeth Goll as attorney in fact.

Witness my hand and official seal.
My commission expires: May 26, 2021



Bailey Alexis Eirish
Notary Public

LENDER:

WBF/CT Associates, LLC,
a Pennsylvania limited liability company

By: [Signature]
Name: Chad Hurst
Title: Partner

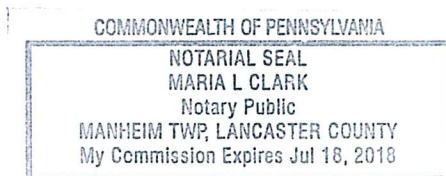
STATE OF Pennsylvania)
) ss.
COUNTY OF Lancaster)

The foregoing instrument was acknowledged before me this ____ day of January, 2018, by _____, as _____ of WBF/CT Associates, LLC.

Witness my hand and official seal.
My commission expires: 7/18/18

Notary Public

Maria L. Clark



**EXHIBIT A
NEW PROPERTY DESCRIPTIONS**

2195 South Bellaire 16, LLC

The real property owned and pledged by 2195 South Bellaire 16, LLC is commonly known as 2195 South Bellaire Street, Denver, CO 80222 and is legally described as follows:

Lots 25, 26 and 27, Block 3, Warren's University Heights, City and County of Denver, State of Colorado

2196 South Ash 16, LLC

The real property owned and pledged by 2196 South Ash 16, LLC is commonly known as 2196 South Ash Street, Denver, CO 80222 and is legally described as follows:

Lots 23 and 24, Block 3, Warren's University Heights, City and County of Denver, State of Colorado

2186 South Ash 16, LLC

The real property owned and pledged by 2186 South Ash 16, LLC is commonly known as 2186 South Ash Street, Denver, CO 80222 and is legally described as follows:

Lots 21 and 22, Block 3, Warren's University Heights, City and County of Denver, State of Colorado

2176 South Ash 16, LLC

The real property owned and pledged by 2176 South Ash 16, LLC is commonly known as 2176 South Ash Street, Denver, CO 80222 and is legally described as follows:

Lots 19 and 20, Block 3, Warren's University Heights, City and County of Denver, State of Colorado

2175 South Bellaire 16, LLC

The real property owned and pledged by 2175 South Bellaire 16, LLC is commonly known as 2175 South Bellaire Street, Denver, CO 80222 and is legally described as follows:

Lots 28, 29 and 30, Block 3, Warren's University Heights, City and County of Denver, State of Colorado

2166 South Ash 17, LLC

The real property owned and pledged by 2166 South Ash 17, LLC is commonly known as 2166 South Ash Street, Denver, CO 80222 and is legally described as follows:

Lots 17 and 18, Block 3, Warren's University Heights, City and County of Denver, State of Colorado

7842 East Briarwood 16, LLC

The real property owned and pledged by is commonly known as 7842 East Briarwood Boulevard, Centennial, CO 80112 and is legally described as follows:

Lot 16, Block 1, Walnut Hills – Filing No. 1, County of Arapahoe, State of Colorado

6316 East Fair 16, LLC

The real property owned and pledged by 6316 East Fair 16, LLC is commonly known as 6316 East Fair Avenue, Centennial, CO 80111 and is legally described as follows:

Lot 18, Block 15, Palos Verdes – Third Filing, County of Arapahoe, State of Colorado