

APN# 1220-21-111-116

DOUGLAS COUNTY, NV **2019-924298**
Rec:\$35.00
Total:\$35.00 **01/07/2019 03:21 PM**
DOTSON LAW CORPORATION Pgs=10

Recording Requested by/Mail to:

Name: Mead A. Dixon, Dotson Law

Address: 1 E. 1st St, Ste 1600

City/State/Zip: Reno, NV 89501

Mail Tax Statements to:

Name: Martin Miller Fitzgerald, LLC

Address: 17530 Bain Springs Rd

City/State/Zip: Reno, NV 89521



KAREN ELLISON, RECORDER

Deed of Trust With Assignment of Rents

Title of Document (required)

------(Only use if applicable)-----

The undersigned hereby affirms that the document submitted for recording
DOES contain personal information as required by law: (check applicable)

Affidavit of Death – NRS 440.380(1)(A) & NRS 40.525(5)

Judgment – NRS 17.150(4)

Military Discharge – NRS 419.020(2)

Mead Dixon

Signature

Mead A. Dixon

Printed Name

This document is being (re-)recorded to correct document # _____, and is correcting

APN: 1220-21-111-116

Pursuant to NRS 239B.030, the undersigned hereby affirms that the preceding document does not contain the social security number of any person.

**RECORDING REQUESTED BY, AND
WHEN RECORDED MAIL TO:**

Martin Miller Fitzgerald, LLC
17530 Bain Springs Road
Reno, NV 89521

DEED OF TRUST WITH ASSIGNMENT OF RENTS

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS (“**Deed of Trust**”) is made effective as of **August 30, 2018**, by DOOSTON GARDNERVILLE LLC, a California limited liability company, as trustor (“**Trustor**”), whose address is 5270 San Vicente Terrace, Dublin, CA 94568, to CAPITAL TITLE COMPANY OF NEVADA, LLC, as trustee (“**Trustee**”), whose address is 10539 Professional Circle, Suite #102, Reno, NV 89521, for the benefit of MARTIN MILLER FITZGERALD, LLC, a Nevada limited liability company, and its successors and assigns, as beneficiary (“**Beneficiary**”), whose address is 17530 Bain Springs Road, Reno, NV 89521.

RECITALS

A. This Deed of Trust is made pursuant to a Settlement Agreement and Release of All Claims, executed **August 30, 2018**, entered into among DOOSTON PROPERTIES LLC, a California limited liability company (“**DP**”), Trustor and Beneficiary, in settlement of that certain action in the Ninth Judicial District Court of the State of Nevada, Douglas County, Department Two, 17-CV-0157 (“**Settlement Agreement**”), between DP, Trustor and Beneficiary, wherein it was agreed that certain obligations of the Trustor under the Settlement Agreement are to be secured by a deed of trust in accordance with the terms and conditions of the Settlement Agreement.

B. This Deed of Trust is made and given by Trustor in furtherance of its obligations in the Settlement Agreement.

NOW THEREFORE, Trustor agrees as follows:

1. Grant. Trustor hereby grants to Trustee in trust, with power of sale, that land in **Douglas County, Nevada**, described on Exhibit A attached to this Deed of Trust and incorporated herein by this reference (“**Land**”), together with all right, title and interest of Trustor in (i) any and all existing and future improvements, buildings, structures, facilities,

fixtures and additions on, under, through or within the Land (collectively, “**Improvements**”), (ii) all Appurtenant Rights (below defined), (iii) all income, receipts, revenues, rents, issues and profits now or hereafter arising from or out of the Land or Improvements (collectively, “**Rents**”), and (iv) all proceeds of the Land, Improvements, Appurtenant Rights and Rents. “**Appurtenant Rights**” means any and all interests, claims, or rights which Trustor may hereafter acquire in connection with the Land and Improvements, and all right, title and interest of Trustor in the appurtenances, hereditaments, privileges, entitlements, reversions, remainders, profits, easements, rights-of-way, franchises and tenements thereof, including, but not limited to, all minerals, oil, gas and other hydrocarbon substances thereon or therein, air rights, waters and water rights, “will-serve” letters, and any land lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Land and Improvements. The Land, Improvements, Appurtenant Rights and Rents are collectively, the “**Property**.”

2. Secured Obligations. This Deed of Trust is given for the purpose of securing, in such order of priority as Beneficiary may determine, the following (collectively, “**Secured Obligations**”):

2.1. Payment of Trustor’s indebtedness evidenced by the Settlement Agreement and any modifications or amendments thereof, in the principal sum of **\$50,000.00**, together with interest thereon at the interest rate set forth in the Settlement Agreement.

2.2. Payment and performance of all obligations of Trustor under this Deed of Trust, as amended or modified from time to time, including, without limitation, payment of all sums expended or advanced by Beneficiary under this Deed of Trust, together with interest thereon at the interest rate set forth in the Settlement Agreement, together with all sums expended by Beneficiary in the preservation, enforcement and realization of the rights of Beneficiary under this Deed of Trust or under any of the other obligations secured hereby, including, without limitation, attorneys’ fees and costs, court costs, expert costs, other litigation expenses, judicial or non-judicial foreclosure expenses, and all fees, costs and expenses incurred in connection with any appellate proceedings and any bankruptcy, insolvency or debtor proceeding.

3. Trustor Obligations. To protect the security of this Deed of Trust, and with respect to the Property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in **Exhibit B** to this Deed of Trust.

4. No Sale or Encumbrance. It shall be a default under this Deed of Trust if the interest of Trustor in the Property or any part thereof, or any ownership or equity interest in Trustor, is sold, conveyed, assigned, alienated, encumbered or otherwise transferred, voluntarily or involuntarily, whether by operation of law or otherwise, without Beneficiary’s prior written consent; and thereafter, principal outstanding under the Settlement Agreement, irrespective of the due dates expressed therein, at the option of Beneficiary, and without demand or notice, shall immediately become due and payable. If Beneficiary does not elect to declare such principal sums immediately due and payable, then, unless indicated otherwise in writing by Beneficiary,

Trustor shall nevertheless remain primarily liable for the obligations under this Deed of Trust and under the Settlement Agreement. This provision shall apply to each and every sale, conveyance, assignment, alienation, encumbrance or transfer, regardless whether or not Beneficiary has consented to, or waived, Beneficiary's rights hereunder, whether by action or non-action in connection with any previous sale, conveyance, alienation, encumbrance or transfer and whether or not the holder has received any payments after such transfer.

5. Default. Upon a default with regard to the Secured Obligations, Beneficiary may, at its option, declare immediately due and payable all obligations of Trustor to Beneficiary secured by the Property, and the same shall thereupon become immediately due and payable without notice to, or demand on, Trustor, except as otherwise required by law.

6. Cumulative Remedies. The rights, powers and remedies given to Beneficiary by this Deed of Trust are cumulative, and are in addition to all other rights, powers and remedies now or hereafter given to Beneficiary under law or in equity. Every power or remedy given by this instrument to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies. Any forbearance or failure or delay by Beneficiary in exercising any right, power or remedy hereunder shall not be deemed to be a waiver of any other right, power or remedy, nor as a continuing waiver.

7. No Waiver by Beneficiary. By accepting payment of any sum secured by this Deed of Trust after its due date or in an amount less than the sum due, Beneficiary does not waive its rights either to require prompt payment when due of all other sums so secured or to declare a default as herein provided for failure to pay the total sum due.

8. Wavier. Trustor waives the benefit of all rights of marshalling in the event of any sale under this Deed of Trust of the Property or any part thereof or any interest therein.

9. Joint and Several. If more than one person constitutes the Trustor, their obligations under this Deed of Trust shall be joint and several.


10. Statutory Provisions. To the extent not inconsistent with the other provisions of this Deed of Trust, the following covenants, Nos. 1; 2 (full replacement value); 3; 4 (interest rate under the Settlement Agreement); 5; 6; 7 (counsel fees shall be in an amount equal to the actual and reasonable attorneys' fees incurred by Trustee and Beneficiary); 8 and 9 of NRS Section 107.030 are hereby adopted and made a part of this Deed of Trust.

11. Subordination. The lien created by this Deed of Trust may be subordinate to a first priority lien in a maximum sum of \$250,000.00; provided, however, that such sum is loaned to Trustor for construction purposes to improve the Property, and Trustor is not then in default under the terms of the Settlement Agreement or this Deed of Trust.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust to be effective as of the day first written above.

TRUSTOR:

DOOSTON GARDNERVILLE LLC, a
California limited liability company

By: 
Name: Fred J. Musser
Its: Manager

ACKNOWLEDGMENT

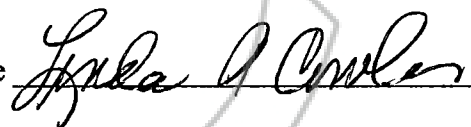
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Colorado)
)
County of Broomfield)

On Apr 28th 2018, before me, Linda A Cowles,
(insert name and title of the officer) personally appeared Fred J. Musser, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under ~~PENALTY OF PERJURY~~ under the laws of the State of Colorado that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)

LINDA A. COWLES
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20124040575
My Commission Expires June 29, 2020

EXHIBIT A

LEGAL DESCRIPTION

All that certain real property situated in Douglas County, Nevada, and described as follows:

Lot 50 as shown on the Amended Final Map of COTTAGES AT CARSON VALLEY, PHASE I, a Planned Development #PD 05-003-3, an Amendment of Heritage Nevada Senior Housing, a Planned Development #PD 05-003, recorded in the Office of the Douglas County Recorder, State of Nevada, on June 20, 2017, as Document No. 2017-900311, Official Records.

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EXHIBIT B

A. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

(1) To keep the Property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting the Property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) Trustor covenants to keep all buildings that may now or at any time be on the Property during the continuance of this trust in good repair and insured against loss by fire, with extended coverage endorsement, in a company or companies authorized to issue such insurance in the State of Nevada, and as may be approved by Beneficiary, for such sum or sums as shall equal the total indebtedness secured by this Deed of Trust and all obligations having priority over this Deed of Trust and shall be payable to Beneficiary to the amount of the unsatisfied obligation to Beneficiary hereby secured, and to deliver the policy to Beneficiary, or to collection agent of Beneficiary, and in default thereof, Beneficiary may procure such insurance and/or make such repairs, and expend for either of such purposes such sum or sums as Beneficiary shall deem proper.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

(4) To pay at least ten days before delinquency all taxes and assessments affecting the Property; when due, all encumbrances, charges and liens, with interest, on the Property or any part thereof, which appear to be prior or superior hereto, and all costs, fees and expenses of this trust.

(5) Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor, and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof; Beneficiary or Trustee being authorized to enter upon the Property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in

exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

(6) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at ten percent (10%) per annum.

B. IT IS MUTUALLY AGREED:

(1) That any award of damages in connection with any condemnation for public use of or injury to the Property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by Beneficiary in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

(2) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive Beneficiary's right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(3) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these trusts, to collect the rents, issues and profits of the Property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, exercise rights or remedies under Nevada Revised Statutes Chapter 107A, or enter upon and take possession of the Property or any part thereof, or in Beneficiary's own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of such rents, issues, and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(4) That upon default by Trustor in payment of any indebtedness secured by this Deed of Trust or in performance of any agreement under this Deed of Trust, Beneficiary may declare all sums secured by this Deed of Trust immediately due and payable by delivery to Trustee of written notice of default and of election to cause to be sold the Property, which notice Trustee shall cause to be recorded. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law for the sale of Property, Trustee, without demand on Trustor, shall sell the Property or any part thereof at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at such time and

place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. If any indebtedness secured hereby shall not have been fully satisfied by such sale, Trustee may give notice of sale of any Property not previously noticed for sale in the manner set forth above and sell the same in the manner set forth above. Trustee shall deliver to any purchaser its deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. After deducting all costs, fees and expenses of Trustee, including a reasonable fee for the attorney of Trustee, and of this trust, including cost evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of all sums expended under the terms hereof, not then repaid, with accrued interest at ten percent (10%) per annum, and all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

(5) That Beneficiary, or its assignee, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed and acknowledged and recorded in the office of the recorder of the county or counties where the Property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where, or document or file number under which, this Deed of Trust is recorded, and the name and address of the new Trustee. If notice of default shall have been recorded, this power of substitution cannot be exercised until after the costs, fees and expenses of the then acting Trustee shall have been paid to such Trustee, who shall endorse receipt thereof upon such instrument of substitution. The procedure herein provided for substitution of Trustee shall be exclusive of all other provisions for substitution, statutory or otherwise.

(6) It is expressly agreed that the trust created hereby is irrevocable by Trustor.

(7) That this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall include an assignee of the Settlement Agreement.

(8) In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

(9) That Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

(10) Trustor agrees to pay any deficiency arising from any cause after application of the proceeds of the sale held in accordance with the provisions of the covenants hereinabove adopted by reference.

