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FORSYTH CO, NC FEE \$54.00

PRESENTED & RECORDED:

11-13-2009 04:15:00 PM

C. NORMAN HOLLEMAN

REGISTER OF DEEDS

BY: PATSY RUTH DAVIS

DPT

BK: RE 2921

PG: 328-336

Prepared by and ~~return to~~: Charles C. Green, Jr. (Box 5)
City Attorney's Office

Blanco Box 52
(DLM)

NORTH CAROLINA) DEED OF TRUST
) AND SECURITY AGREEMENT
FORSYTH COUNTY) (COLLATERAL IS OR INCLUDES FIXTURES)

THIS DEED OF TRUST AND SECURITY AGREEMENT, made and entered into as of the 13th day of November, 2009, by Y-stair Apartments, LLC, a North Carolina limited liability company, (hereinafter referred to as "Grantor"), to Angela I. Carmon, Trustee, of Forsyth County, State of North Carolina (hereinafter referred to as "Trustee"), for the benefit of the CITY OF WINSTON-SALEM, a municipal corporation of the State of North Carolina (hereinafter referred to as "Beneficiary").

WITNESSETH THAT:

WHEREAS, the Grantor is indebted to Beneficiary in the principal sum of Seven Hundred Eighty-two Thousand Forty-four and No/100 Dollars (\$782,044.00) (the "Principal Sum") pursuant to the terms of a Deferred Loan Agreement of even date herewith by and between the Grantor and the Beneficiary (the "Agreement"), for which Principal Sum the Grantor has executed and delivered a Promissory Note of even date herewith payable to the Beneficiary or order (which Promissory Note, together with any modifications, extensions or renewals thereof, amendments thereto, or substitutions therefor is hereinafter referred to as the "Note"); and

WHEREAS, this Deed of Trust is given to secure all present and future obligations of Grantor to Beneficiary to be incurred from time to time through the periodic disbursement of proceeds of the Note in accordance with the Agreement, the terms of which are incorporated herein by reference, for the purpose of financing the rehabilitation and construction of improvements (hereinafter referred to as the "Improvements") on the premises hereinbelow described. The period in which future obligations may be incurred and secured by this Deed of Trust is the period between the date hereof and four (4) years from the date hereof. The amount of present obligations secured by this Deed of Trust is Zero Dollars (\$-0-); and the maximum principal amount, including present and future obligations, which may be secured by this Deed of Trust

at any one time is Seven Hundred Eighty-two Thousand Forty-four and No/100 Dollars (\$782,044.00). Any additional amounts advanced by Beneficiary pursuant to the provisions of this Deed of Trust shall be deemed necessary expenditures for the protection of the security. Grantor need not sign any instrument or notation evidencing or stipulating that future advances or obligations are secured by this Deed of Trust; and

WHEREAS, the Grantor desires to secure the payment of said indebtedness and all charges in the Note and as herein provided, and of the additional payments hereinafter agreed to be made, by a conveyance of the lands and a grant of the security interests hereinafter described.

NOW, THEREFORE, in consideration of the premises and for the purposes aforesaid, and in further consideration of the sum of One Dollar (\$1.00) paid to the Grantor by the Trustee, receipt of which is hereby acknowledged, the Grantor has given, granted, bargained and sold, and by these presents does give, grant, bargain, sell and convey unto the said Trustee, her heirs, successors and assigns, the following described lot or parcel of land lying and being in Winston Township, County of Forsyth, and State of North Carolina, and more particularly described as follows:

Being all of those tracts or parcels of land located in the City of Winston-Salem, Winston Township, Forsyth County, North Carolina, and being more particularly described as follows:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF

Together with all and singular all fixtures, equipment and other articles of personal property now owned by the Grantor and located upon the above described property, or hereafter acquired and located thereon and used in connection with the operation and maintenance of the Improvements situate thereon.

TO HAVE AND TO HOLD, the said land and premises, including all houses, buildings, improvements and fixtures thereon, with all rights, privileges, and appurtenances thereunto belonging or appertaining to the Trustee, her heirs, successors and assigns, in fee simple, upon the trust and for the uses and purposes hereinafter set out;

THIS CONVEYANCE IS MADE UPON THIS SPECIAL TRUST, that if the Grantor shall pay the Note secured hereby in accordance with its terms, together with interest thereon, and any renewals or extensions thereof, in whole or in part, and shall comply with all covenants, terms and conditions of this Deed of Trust and the Agreement, then this conveyance shall be null and void and may be canceled of record at the request and at the cost of the Grantor. If, however, there shall be any default in any of the terms or conditions of the Note secured hereby, or of the terms, conditions or covenants contained in this Deed of Trust, or of the terms, conditions and covenants contained in the Agreement or in the event of actual or threatened demolition or injury or waste to the premises which may impair the value of the property hereby conveyed, or if a receiver should be appointed for, or a petition in bankruptcy filed by or against, the Grantor, then and in any of such events, the Note shall, at the option of the Beneficiary, become at once due and payable, regardless of the maturity date thereof, and on the application of the Beneficiary, it

shall be lawful for and the duty of the Trustee, and she is hereby authorized and empowered, to expose to sale and to sell the hereinbefore described premises and personal property, if any, at public auction for cash, after having first complied with all applicable requirements of North Carolina law with respect to the exercise of powers of sale contained in Deeds of Trust and upon such sale, the Trustee shall convey fee simple title to the purchaser. After retaining from the proceeds of such sale a five percent (5%) commission of the gross sale proceeds as just compensation for her services and all expenses incurred by her, including reasonable attorneys' fees for legal services actually performed, the Trustee shall apply the residue of the proceeds first, to the payment of all sums expended by the Beneficiary under the terms of this Deed of Trust; second, to the payment of the Note and interest thereon secured hereby; and the balance, if any, shall be paid to such persons as are legally entitled. The Grantor agrees that in the event of a sale hereunder, the Beneficiary shall have the right to bid thereat. The Trustee may require the successful bidder at any sale to deposit immediately with the Trustee cash or certified check in an amount not to exceed five percent (5%) of the bid, provided notice of such requirement is contained in the advertisement of the sale. The bid may be rejected if the deposit is not immediately made and thereupon the next highest bidder may be declared to be the purchaser. Such deposit shall be refunded in case a resale is had; otherwise it shall be applied to the purchase price. If personal property is sold hereunder, it need not be at the place of sale. The published notice, however, shall state the time and place where such property may be inspected prior to sale.

In the event of any default in any of the covenants or agreements contained in this Deed of Trust, the Beneficiary may, at its option, defer application by it to the Trustee to sell the premises and may take action under and invoke such other rights and remedies as may be provided in the Loan Documents or in this Deed of Trust.

The Grantor covenants and agrees that it will:

1. Pay the indebtedness as hereinbefore provided;
2. Pay before they are past due all taxes, assessments, levies and charges upon or against the property herein described, of every character which are now due or which may hereafter become liens on said premises, including all taxes assessed in North Carolina against the Trustee or the Beneficiary on this instrument or the sum hereby secured or evidenced by said Note, provided the amount of such latter taxes with the interest on the sum hereby secured does not exceed the maximum contract rate permitted by law, but if it does, the excess to be paid by the Beneficiary; and will immediately deliver to the Beneficiary official receipts therefore;
3. Keep the buildings now or hereafter on said premises insured against loss and damage by fire, tornado and windstorm, and against such other hazards as the Beneficiary may require, including business interruption, in amounts satisfactory to the Beneficiary, which amounts shall at no time be less than the outstanding indebtedness secured by the Deed of Trust, plus an amount sufficient to prevent any co-insurance liability of the owner of the property or the Beneficiary, for the benefit of the Beneficiary; loss, if any, to be made payable in the policy or policies of insurance to the Beneficiary as its interest may appear, the loss payable clauses to be in such form as the Beneficiary may require. All insurance shall be in companies approved by

the Beneficiary and the policies and renewals thereof shall, when issued, be immediately delivered to the Beneficiary to be held by it; the Grantor will pay all premiums for such insurance when due and immediately deliver to the Beneficiary official receipts therefor, and if the Grantor fails or refuses to keep said premises so insured, the Beneficiary may obtain such insurance without prejudice to its right to foreclose hereunder by reason of such default. In the event of loss, the Grantor will give immediate notice by mail to the Beneficiary who may make proof of loss if not made promptly by the Grantor, and each insurance company concerned is hereby authorized and directed to make payment of such loss directly to the Beneficiary instead of to the Grantor and the Beneficiary jointly. The proceeds of any insurance, or any part thereof, may be applied by the Beneficiary, at its option, either to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. The Beneficiary may, at its option, pay any such insurance premiums, taxes, assessments, levies, or charges against the premises of which payment, amount and validity thereof the official receipt shall be conclusive evidence and any amounts so expended shall immediately become debts due by the Grantor, and their payment shall be secured by this Deed of Trust;

4. Keep the premises herein conveyed in good order, repair and condition, reasonable wear and tear excepted;

5. Not commit or permit any waste; and, subject to the rights of residential tenants, the Beneficiary shall have the right to inspect the premises at all reasonable times, and access thereto shall be permitted for that purpose to it or its authorized agents.

6. The Grantor represents and warrants to the Beneficiary that, to the best of the Grantor's knowledge after due inquiry, (a) no Hazardous Materials (hereinafter defined) are located on the Premises, except in such amounts and types as are customarily used in the construction and operation of multifamily housing and in compliance with all applicable laws, (b) the Premises have never been used as a manufacturing, storage, or dump site for Hazardous Materials, (c) the Premises are not affected by any Hazardous Materials contamination, and (d) there are no Hydric Soils (hereinafter defined) on that portion of the Land upon which the Improvements and any appurtenant facilities have been or will be constructed. The term "Hazardous Materials" means (a) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder; (b) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder; (c) any oil, petroleum products, and their byproducts, (including, without limitation, crude oil, diesel oil, fuel oil, gasoline, lubrication oil, oil refuse, oil mixed with other waste oil sludge and all other liquid hydrocarbons, regardless of specific gravity), natural or synthetic gas products; (d) any substance the presence of which on the Premises is prohibited by any federal, state or local law, rule, ordinance or regulation similar to those set forth in this definition; and (e) any other substance which by federal, state or local law, rule, ordinance or regulation or by order or decree of any court or other governmental authority having jurisdiction requires special handling in its collection, storage, treatment, or disposal. The term "Hydric Soils" means any soil category upon which building could be prohibited or restricted under applicable governmental requirements, including, without

limitation, those imposed by the Army Corps of Engineers based upon its guidelines as to, among other things, soil, vegetation and effect on the ecosystem.

7. The Grantor shall not place, manufacture or store, or permit to be placed, manufactured or stored, on the Premises any Hazardous Materials, except in such amounts and types as are customarily used in the construction and operation of multifamily housing and in compliance with all applicable laws. The Grantor agrees to (a) give written notice to the Beneficiary immediately upon the Grantor's acquiring knowledge of the presence of any Hazardous Materials on the Premises or of any Hazardous Materials contamination with a full description thereof (b) promptly comply with any federal, state or local law, rule, ordinance or regulation or any order or decree of any court or other governmental authority having jurisdiction requiring the removal, treatment, or disposal of such Hazardous Materials or Hazardous Materials contamination and provide the Beneficiary with satisfactory evidence of such compliance; and (c) defend, indemnify, and hold harmless the Beneficiary and the Trustee from any and all claims which may now or in the future (whether before or after the release of this Deed of Trust) be asserted as a result of the presence of any Hazardous Materials on the Premises or any Hazardous Materials contamination.

8. As further security for the payment of the Note and the Agreement hereinabove mentioned and for the faithful performance of all the covenants, agreements, terms and provisions of this Deed of Trust, the Grantor hereby collaterally transfers and assigns unto the Beneficiary all the right, title and interest of the Grantor in and to the rents, issues, profits, revenues, royalties, Housing Assistance Payment Contracts or similar contracts, rights and benefits from the above described property, and to that end the Grantor hereby collaterally assigns and sets over unto the Beneficiary all leases and subleases of said premises now made, executed or delivered, whether written or verbal, or to be hereafter made, whether the same be written or verbal, and the Grantor does hereby authorize and empower the Beneficiary to collect said rents, issues, profits, revenues, royalties, rights and benefits as they shall become due and does hereby direct each and all of the tenants and subtenants of the aforesaid premises to pay such rents, as they may now be due or shall hereafter become due, to the Beneficiary, upon demand for payment thereof by the Beneficiary; it being understood and agreed, however, that no such demand shall be made unless and until there has been a default in the payment of the indebtedness secured hereby or in the faithful performance of all covenants, agreements, terms and provisions of this Deed of Trust or the Note or the Agreement secured hereby; and until such demand is made, the Grantor is authorized to collect or continue collecting such rents, issues, profits, revenues, royalties, rights and benefits; but that such privilege to collect or continue collecting, as aforesaid, by the Grantor shall not operate to permit the collection of any rents more than thirty (30) days in advance of the date the same are due under the terms and provisions of said leases or subleases.

9. If the Grantor shall, in any manner, fail in any of the above covenants and agreements, the Beneficiary may (but shall not be obligated to) take any action the Beneficiary deems necessary or desirable to prevent or cure any default by the Grantor in the performance of or compliance with any of the Grantor's covenants or obligations under any of the tenants' or subtenants' leases. The Beneficiary shall have the right to enter upon the within described property to such extent and as often as the Beneficiary, in its reasonable discretion, deems

necessary or desirable in order to prevent or cure any such default by the Grantor. The Beneficiary may expend such sums of money as the Beneficiary, in its reasonable discretion, deems necessary for any such purposes, and the Grantor hereby agrees to pay to the Beneficiary, immediately upon demand, all sums so expended by the Beneficiary. All sums so expended by the Beneficiary shall be added to and secured by the lien of this instrument. The Grantor will give the Beneficiary immediate notice by certified mail of any notice of default or notice of cancellation received from any tenant or subtenant.

10. Any default in any other security instrument affecting the premises or improvements shall be deemed a default under this Deed of Trust.

11. Upon the condemnation of the premises or Improvements or any part thereof which condemnation has or could have a material adverse effect on the operation of Grantor's business, the entire unpaid balance of the Note secured hereby shall, at the option of the Beneficiary, at once become due and payable, and any award paid for such taking is hereby assigned to the Beneficiary to further secure the above referred to indebtedness. The Beneficiary is hereby authorized and empowered (but not required) to collect and receive such award and is authorized to apply it in whole or in part in reduction of the then outstanding debt secured by this Deed of Trust, notwithstanding the fact that the same may not then be due and payable. Any amounts so applied to principal shall be applied to the installments or principal last maturing hereon. The Grantor agrees to execute such further assignments of any such awards as the Beneficiary may require.

12. None of the property (or any beneficial interest therein including, but not limited to, a conveyance of any membership interest) hereinabove described will be conveyed, transferred or further encumbered while this Deed of Trust is in effect, unless the Beneficiary shall have given its consent in writing thereto; provided however, prior consent need not be given in the case of a lease to a residential tenant.

13. The Beneficiary shall have the right, after default in any of the terms, covenants or agreement herein contained, or contained in the aforesaid Note or Agreement, to the appointment of a receiver to collect the rents and profits from the premises hereinbefore described without consideration of the value of the premises or the solvency of any person liable for the payment of the amounts then owing, and all amounts collected by the receiver shall, after expenses of the receivership, be applied to the payment of the indebtedness hereby secured and the Beneficiary, at its option, in lieu of an appointment of a receiver, shall have the right to do the same. If such receiver should be appointed, or if there should be a sale of the said premises, as provided above, the Grantor or any person in possession of the premises thereunder, as tenant or otherwise, shall become a tenant at will of the receiver or of the purchaser and may be removed by a writ of ejectment, summary ejectment or other lawful remedy.

14. No delay or forbearance by the Beneficiary in exercising any or all of its rights hereunder or rights otherwise afforded by law, shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any default as set forth herein or in the event of any subsequent default hereunder, and all rights shall be cumulative. In case the Beneficiary or the Trustee, voluntarily or otherwise, shall become a party to any suit or legal proceeding to protect

the property herein conveyed or to protect the lien of this Deed of Trust, the Trustee and the Beneficiary shall be saved harmless and shall be reimbursed by the Grantor for any amounts paid, including all reasonable costs, charges and attorneys' fees incurred in any such suit or proceeding, and the same shall be secured by this Deed of Trust and its payment enforced as if it were a part of the original debt.

15. It is specifically agreed that the parties hereto shall in no event be deemed to have contracted for a greater rate of interest than the maximum rate permitted by law. Should a greater amount be collected, it shall be construed as a mutual mistake of the parties and the excess shall be returned to the party paying same.

16. The Beneficiary shall at any time have the irrevocable right to remove the Trustee herein named without notice or cause and to appoint her successor by an instrument in writing, duly acknowledged, in such form as to entitle such written instrument to be recorded in this State, and in the event of the death or resignation of the Trustee herein named, the Beneficiary shall have the right to appoint her successor by such written instrument, and any Trustee so appointed shall be vested with the title to the property hereinbefore described, and shall possess all rights, powers, duties and obligations herein conferred on the Trustee in the same manner and to the same extent as though he were named herein as Trustee.

17. This Deed of Trust shall constitute a security agreement with respect to all equipment and fixtures and all other items and types of personal property (hereinafter called "Personal Property") of the Grantor now owned or hereafter acquired and located upon the herein described real estate and used in the operation and maintenance of the Improvements thereon and the Grantor hereby grants to the Beneficiary a security interest in the Personal Property including, without limitation, all appliances, all boilers, all heating, air conditioning and ventilating components and systems, all lighting, electrical power, plumbing, sprinkler and water components and systems, all carpets, wall coverings, screens and drapes and all mechanical and hydraulic components and systems located on and used in connection with the operation or maintenance of the aforementioned Improvements. The Beneficiary shall have all of the rights and remedies of a secured party under the North Carolina Uniform Commercial Code (the "UCC") and other applicable laws.

18. With respect to those items of Personal Property which are or are to become fixtures related to the herein described real estate, this Deed of Trust shall constitute a financing statement filed as a fixture filing. The lien upon fixtures granted herein and perfected hereby shall be in addition to and not in lieu of any lien upon fixtures acquired under real property law. For purposes of such fixture filing, (i) Grantor shall be deemed a debtor under the UCC, and the address of Grantor is: 406 East Fourth Street, Winston-Salem, NC 27101; and (ii) Beneficiary shall be deemed a secured party under the UCC.

19. The covenants, terms and conditions herein contained shall bind and the benefits and powers shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. Whenever used herein, the singular number shall include the plural, the plural the singular, and the term "Beneficiary" shall include any payee of the indebtedness

hereby secured and any transferee or assignee thereof, whether by operation of law or otherwise.

IN TESTIMONY WHEREOF, the Grantor has caused this Deed of Trust to be executed under seal the day and year first above written.

Y-STAIR APARTMENTS, LLC,
a North Carolina limited liability company
By: Blackpine Development Corporation,
Managing Member
By: [Signature]
Name: DeWayne H. Anderson, Jr.,
Title: President

STATE OF NORTH CAROLINA)
COUNTY OF Forsyth)

Sus I, Susan J. Schramm, a Notary Public of the County and State aforesaid, do hereby certify that DeWayne H. Anderson, Jr., President of Blackpine Development Corporation, Managing Member of Y-stair Apartments, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the limited liability company.

Witness my hand and notarial seal or stamp, this the 3rd day of November, 2009.

[Signature]
Notary Public

(Notarial Seal)

My commission expires: April 14, 2010

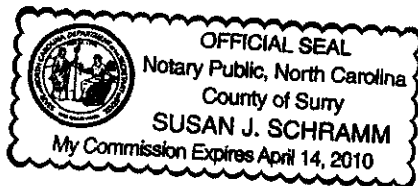


EXHIBIT A

BEING all those certain tracts or parcels of land lying and between located in Winston-Salem, Forsyth County, North Carolina, and being more particularly described as follows:

TRACT 1

BEGINNING at a ¼" existing iron pipe located in the western right-of-way of North Cherry Street, said iron pipe also being the northeast corner of Lot No. 16 as shown on the revised map of Lots No. 8 to No. 17, Block 14, N. Cherry St. Dev'p. Co., as recorded in Plat Book 6, Page 66, Forsyth County Registry; thence leaving said right-of-way South 84°55'25" West, a distance of 146.49 feet to a ¼" existing iron pipe in the eastern margin of a 10 foot alley; thence along the eastern margin of said 10 foot alley North 03°52'06" East, a distance of 123.17 feet to a ¼" existing iron pipe; thence continuing along the eastern margin of said 10 foot alley North 03°51'21" East, a distance of 35.35 feet to a ½" existing iron pipe; thence leaving said margin South 85°39'12" East, a distance of 126.40 feet to a ½" existing iron pipe located in the western right-of-way of North Cherry Street; thence along said right-of-way South 02°14'37" East, a distance of 34.73 feet to a ¼" existing iron pipe; thence South 02°29'30" East, a distance of 18.88 feet to a ¼" existing iron pipe, said iron pipe being located North 76°04'22" West, a distance of 29.95 feet from a pk nail located in the intersection of the centerlines of North Cherry Street and Pittsburg Avenue; thence continuing along said right-of-way South 04°05'05" East, a distance of 40.13 feet to a ¼" existing iron pipe; thence continuing along said right-of-way South 05°38'10" East, a distance of 42.22 feet to a ¼" existing iron pipe, said existing iron pipe being the point and place of BEGINNING, as more particularly shown on a survey entitled "Map for: Y-stair Apartments, LLC" by Daniel Walter Donathan, United Limited Engineering & Land Surveying, P.A., dated October 9, 2009, and containing 0.4547 acres, more or less.

Being informally known as Tax Lots 14-B, 104, 106 & 107 of Block 1351, tax maps of Forsyth County as presently constituted.

Together with

TRACT 2

BEGINNING at a ¼" existing iron pipe located in the western right-of-way of North Cherry Street (50 foot right-of-way), said point being the northeastern corner of Lot 9 in Block 15, as shown on the map of North Cherry Street Development Company recorded in Plat Book 4, Page 55, Forsyth County Register of Deeds; thence from said point of BEGINNING leaving said right-of-way North 84°07'21" West, a distance of 132.90 feet to a point in the eastern margin of a 10 foot alley; thence along the eastern margin of said alley North 03°51'56" East, a distance of 49.82 feet to a ¾" existing iron pipe; thence leaving said margin South 84°09'48" East, a distance of 142.34 feet to a ½" existing iron pipe in the western right-of-way of North Cherry Street; thence along said right-of-way South 14°41'36" West, a distance of 50.49 feet to a ¼" existing iron pipe, being the point and place of BEGINNING, as shown more particularly on a survey entitled "Map for: Y-stair Apartments, LLC" by Daniel Walter Donathan, United Limited Engineering & Land Surveying, P.A. dated October 9, 2009, containing 0.157 acres, more or less.

Being informally known as Tax Lot 8 of Block 1350, tax maps of Forsyth County as presently constituted.