

DD9000000022

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

☐ PICK-UP

☐ WAIT

☐ MAIL

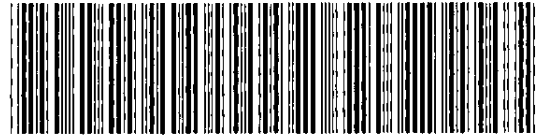
(Business Entity Name)

(Document Number)

Certified Copies _____ Certificates of Status _____

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Office Use Only



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FILED
09 DEC 23 AM 11:34
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

RECEIVED
09 DEC 23 AM 10:40
DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
TALLAHASSEE, FLORIDA

SP 12/24/09



CORPORATION SERVICE COMPANY

ACCOUNT NO. : I20000000195

REFERENCE : 211122 7580356

AUTHORIZATION :

COST LIMIT : \$ 350.00

ORDER DATE : December 8, 2009

ORDER TIME : 10:30 AM

ORDER NO. : 211122-010

CUSTOMER NO: 7580356

FOREIGN FILINGS

NAME: ARC WBPBFL0001 DST

XXXX QUALIFICATION (TYPE: BST)

PLEASE RETURN THE FOLLOWING AS PROOF OF FILING:

 CERTIFIED COPY
XXX PLAIN STAMPED COPY
 CERTIFICATE OF GOOD STANDING

CONTACT PERSON: Matthew Young -- EXT# 2962

EXAMINER: _____

**AFFIDAVIT TO THE FLORIDA SECRETARY OF STATE
TO FILE OR QUALIFY**

FILED
09 DEC 23 AM 11:34
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARC WBPBFL0001 DST

A Delaware **TRUST**

In accordance with Section 609.02 of the Florida Statutes, pertaining to
Common Law Declarations of Trust, the undersigned, the Chairman of the
Board of Trustees of ARC WBPBFL0001 DST, a

(Name of Trust)

Delaware Trust hereby affirms in order to file or qualify

(State)

ARC WBPBFL0001 DST, in the State of Florida.

(Name of Trust)

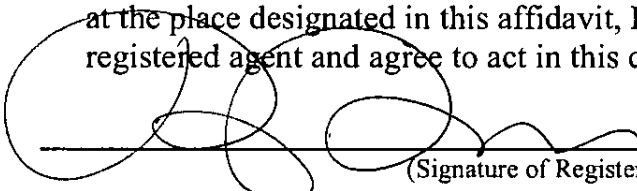
1. Two or more persons are named in the Trust.

2. The principal address is 106 Old York Road, Jenkintown, PA 19046

3. The registered agent and street address in the State of Florida are:
Corporation Service Company, 1201 Hays Street

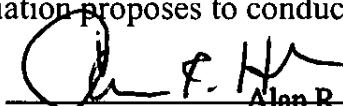
Tallahassee, FL 32301

4. Acceptance by the registered agent: Having been named as registered
agent to accept service of process for the above named Declaration of Trust
at the place designated in this affidavit, I hereby accept the appointment as
registered agent and agree to act in this capacity.



(Signature of Registered Agent)

5. I certify that the attached is a true and correct copy of the Declaration of
Trust under which the association proposes to conduct its business in
Florida.



Name:

Alan R. Halpern

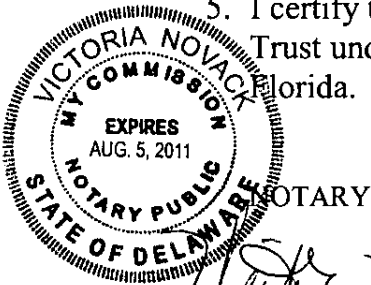
Vice President

Chairman of the Board of Trustees

**CSC Trust Company of Delaware,
not in its individual capacity
but solely as Trustee**

Filing Fee: \$350.00

Certified Copy: \$ 8.75 (optional)





CR2E063(3/00)

VICTORIA NOVACK

NOTARY PUBLIC

STATE OF DELAWARE

My commission expires Aug. 5, 2011

FILED
09 DEC 23 AM 11:35
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

PROPERTY TRUST AGREEMENT
OF ARC WBPBFL0001 DST
(PNC)

DATED AS OF
SEPTEMBER 10, 2009

FILED

09 DEC 23 AM 11:35

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

PROPERTY TRUST AGREEMENT
OF
ARC WBPBFL0001 DST,
A DELAWARE STATUTORY TRUST
(PNC)

This PROPERTY TRUST AGREEMENT, dated as of September 10, 2009 (as the same may be amended or supplemented from time to time, this "*Property Trust Agreement*"), is made by and between American Realty Capital Advisors, LLC, as the Manager, and CSC Trust Company of Delaware, as the Trustee.

RECITALS

A. ARC WBPBFL001, LLC, is a Delaware limited liability company (the "*Existing Entity*").

B. The members of the Existing Entity are (i) ARC DSTMBR002, LLC, a newly-formed Delaware limited liability company (the "*Depositor*") which owns 51% of the interests in the Existing Entity, and (ii) ARC TRSMBR002, LLC, a newly-formed Delaware limited liability company that has or will elect, effective on or before the date of this Agreement, (x) to be classified as an association taxable as a corporation for U.S. federal income tax purposes under Treasury Regulation 301.7701-3, and (y) to be treated as a "taxable REIT subsidiary" for U.S. federal income tax purposes ("*TRS*"), and which owns 49% of the interests in the Existing Entity.

C. The sole member of the Depositor and TRS is American Realty Capital Operating Partnership, L.P. (the "*Operating Partnership*"), the entity through which American Realty Capital Trust, Inc., a real estate investment trust, holds substantially all of its assets.

D. The Depositor and TRS received their 51% and 49% ownership interests in the Existing Entity, respectively, from the Operating Partnership, which had previously owned 100% of the interests of the Existing Entity.

E. Effective as of the date of this Agreement, the Existing Entity will convert to ARC WBPBFL0001 DST (the "*Property Trust*"), a Delaware statutory trust formed in accordance with Chapter 38 of Title 12 of the Delaware Code, §3801, *et seq.* (the "*Statutory Trust Act*"), and after such conversion, the Depositor will own 51% of the beneficial interests in the Property Trust and TRS will own the remaining 49% beneficial interests in the Property Trust.

F. Immediately following such conversion, the Depositor will contribute its 51% beneficial interest in the Property Trust to the Master Trust in exchange for Class 1 Master Trust Beneficial Interests, and TRS will contribute its 49% beneficial interest in the Property Trust to the Master Trust in exchange for the Class 2 Master Trust Beneficial Interests.

G. The Property Trust will issue a Beneficial Ownership Certificate to the Master Trust evidencing 100% of the Beneficial Interests in the Property Trust.

H. As a result of these transactions, effective as of the date of this Agreement, the Property Trust will be the owner of the real estate more particularly described in Exhibit A, together with all buildings, structures, fixtures and improvements located thereon (collectively, the "*Real Estate*").

I. The Real Estate is subject to certain Financing Documents and the Lease.

J. The Property Trust will assume all of the rights and obligations of the Existing Entity under the Financing Documents and the Lease

K. The Property Trust will retain American Realty Capital Advisors, LLC as the Manager of the Property Trust to undertake certain actions and perform certain duties that would otherwise be performed by the Property Trust.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1. Definitions. Capitalized terms used in this Property Trust Agreement shall have the following meanings:

"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract, or otherwise; and the terms "controlling" and "controlled" shall have meanings correlative to the foregoing.

"Assignment of Leases and Rents" means the assignment of leases and rents assigning the Lease to the Lender as security for the Loan.

"Beneficial Interest" means a beneficial interest in the Property Trust, as such term is used in the Statutory Trust Act.

"Beneficial Owner" means the Person who, at the time of determination, holds the Beneficial Interest as reflected on the most recent Ownership Records. As of the Effective Date, the Master Trust is the Beneficial Owner.

"Beneficial Ownership Certificate" means a certificate in substantially the form of Exhibit B evidencing the Beneficial Interest in the Property Trust.

"Business Day" is any day other than on a Saturday, Sunday or legal holiday in the State of Delaware.

"Certificate of Trust" means the certificate of trust of the Property Trust filed or to be filed with the office of the Secretary of State.

"Class 1 Master Trust Beneficial Interests" means those beneficial interests in the Master Trust that are evidenced by the Class 1 Master Trust Beneficial Ownership Certificates.

"Class 1 Master Trust Beneficial Ownership Certificates" means the certificates issued to the Depositor and the Investors as the holders of the Class 1 Master Trust Beneficial Interests.

"Class 2 Master Trust Beneficial Interests" means the beneficial interests in the Master Trust that are held by TRS and are evidenced by the Class 2 Master Trust Beneficial Ownership Certificate.

"Class 2 Master Trust Beneficial Ownership Certificate" means the certificate issued to TRS as the holder of the Class 2 Master Trust Beneficial Interests.

"Closing Date" means that date of the first sale of Class 1 Master Trust Beneficial Interests to the Investors.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Depositor" has the meaning given to such term in the Recitals.

"Effective Date" means the date of this Property Trust Agreement as specified in the introductory paragraph.

"Exhibit" means an exhibit attached to this Property Trust Agreement, unless otherwise specified.

"Existing Entity" has the meaning given to such term in the Recitals.

"Financing Documents" means the Note, the Mortgage, the Assignment of Leases and Rents, an environmental indemnity agreement, an indemnity and guaranty agreement, and any other documents or agreements contemplated by any of the foregoing or otherwise required by Lender.

"Investors" means the Persons who purchase Class 1 Master Trust Beneficial Interests in the Master Trust in a private placement pursuant to that certain Memorandum dated September 1, 2009, together with all amendments, supplements and modifications thereto, and their successors and assigns.

"Lease" means that lease agreement relating to the Real Estate, together with all amendments, supplements and modifications thereto.

"Lender" means TD Bank, N.A., together with its successors and assigns.

"LLC" has the meaning given to such term in Section 9.2.

"Loan" means that certain loan from Lender in a principal amount of \$2,437,500, as evidenced and secured by the Financing Documents.

"LP" has the meaning given to such term in the Recitals.

"Manager" means the Person serving, at the time of determination, as the manager under this Property Trust Agreement. As of the Effective Date, the Manager is American Realty Capital Advisors, LLC.

"Manager Covered Expenses" has the meaning given to such term in Section 5.4.

"Manager Indemnified Persons" has the meaning given to such term in Section 5.4.

"Master Trust" has the meaning given to such term in the Recitals.

"Master Trust Agreement" means that certain Master Trust Agreement of American Realty Capital DST, II dated as September 10, 2009, as the same may be amended or supplemented from time to time.

"Mortgage" means the mortgage and security agreement or deed of trust and security agreement, as the case may be, encumbering the Real Estate as security for the Loan.

"Note" means the note evidencing the Loan.

"Operating Partnership" has the meaning given to such term in the Recitals.

"Ownership Records" means the records maintained by the Manager, substantially in the form of Exhibit C, indicating from time to time the name and mailing address of the Beneficial Owner, which records shall initially indicate the Master Trust as the sole Beneficial Owner and shall be updated by the Manager contemporaneously upon the issuance of a new Beneficial Ownership Certificate in accordance with this Property Trust Agreement, changes in mailing addresses or other changes.

"Person" means a natural person, corporation, limited partnership, general partnership, joint stock company, joint venture, association, company, trust, bank trust company, land trust, business trust, statutory trust or other organization, whether or not a legal entity, and a government or agency or political subdivision thereof.

"Property Trust" has the meaning given to such term in the Recitals.

"Property Trust Agreement" has the meaning given to such term in the introductory paragraph.

"Real Estate" has the meaning given to such term in the Recitals.

"Regulations" means U.S. Treasury Regulations promulgated under the Code.

"Reserves" has the meaning given to such term in Section 7.2.

"Secretary of State" has the meaning given to such term in Section 2.1(b).

"Section" means a section of this Property Trust Agreement, unless otherwise specified.

"Securities Act" means the Securities Act of 1933, as amended.

"Statutory Trust Act" has the meaning given to such term in the Recitals.

"Tenant" means the Person identified as the tenant or lessee in the Lease.

"Transaction Documents" means this Property Trust Agreement, the Master Trust Agreement, the Lease, the Financing Documents, together with any other documents to be executed in furtherance of the investment activities of the Property Trust.

"TRS" has the meaning given to such term in the Recitals.

"Transfer Distribution" has the meaning given to such term in Section 9.2.

"Trust Estate" means all of the Property Trust's right, title, and interest in and to the Lease, the Real Estate, and any and all other property and assets (whether tangible or intangible) in which the Property Trust at any time has any right, title or interest.

"Trust Year" means (i) initially, the period of time commencing on the Closing Date and ending on December 31 and (ii) subsequently, each successive 12-month period thereafter.

"Trustee" means the Person serving, at the time of determination, as the trustee under this Property Trust Agreement. As of the Effective Date, the Trustee is CSC Trust Company of Delaware.

"Trustee Covered Expenses" has the meaning given to such term in Section 4.5.

"Trustee Indemnified Persons" has the meaning given to such term in Section 4.5.

ARTICLE 2 GENERAL MATTERS

Section 2.1 Organizational Matters.

(a) CSC Trust Company of Delaware is hereby appointed as the Trustee and hereby accepts such appointment. American Realty Capital Advisors, LLC is hereby appointed as the Manager and hereby accepts such appointment.

(b) The Trustee is hereby authorized and directed to (i) execute and file in the office of the Secretary of State of the State of Delaware (the "*Secretary of State*") the Certificate of Trust and such other certificates or documents as may from time to time be required under the Statutory Trust Act or any other Delaware law and (ii) execute, in such forms as may be furnished to the Trustee from time to time, and deliver to the Manager, this Property Trust Agreement and such additional certificates and documents as the Manager determines are required by the state and local laws of the jurisdiction in which the Real Estate is located, so that the Manager may have such additional certificates and documents filed with the appropriate governmental entities.

(c) The Master Trust is hereby admitted as the sole owner of the Beneficial Interests in the Property Trust and the Trustee is authorized to issue to the Master Trust a Beneficial Ownership Certificate evidencing ownership of 100% of the Beneficial Interests in the Property Trust and to execute all other documents and take all other actions required to carry out such actions.

(d) The Manager, on behalf of the Property Trust, is hereby authorized and directed (i) to assume all of the rights and obligations under the Financing Documents; and (ii) to execute all documents and take all actions required to carry out such actions, all without the vote, approval or other action of the Trustee, the Beneficial Owner or any other Person.

(e) The Manager, on behalf of the Property Trust, is hereby authorized and directed (i) to assume all of the rights and obligations under the Lease; and (ii) to execute all documents and take all actions required to carry out such actions all without the vote, approval or other action of the Trustee, the Beneficial Owner or any other Person.

(f) The name of the Property Trust is "ARC WBPBFL0001 DST."

(g) The Manager shall have full power and authority, and is hereby authorized, to conduct the activities of the Property Trust, execute and deliver all documents (including, without limitation, the Transaction Documents) for or on behalf of the Property Trust (including, without limitation, actions required to carry out the activities described in Section 2.1(a) through (e) inclusive), and cause the Property Trust to sue or be sued under its name. Any reference to the Property Trust shall be a reference to the statutory trust formed pursuant to the Certificate of Trust and not to the Trustee or the Manager individually or to the officers, agents or employees of the Property Trust, the Trustee, or the Manager.

(h) The principal office of the Property Trust, and such additional offices as the Manager may determine to establish, shall be located at such places inside or outside of the State of Delaware as the Manager shall designate from time to time. As of the Effective Date, the principal office of the Property Trust is located c/o the Manager at 405 Park Avenue, 15th Floor, New York, New York 10022.

(i) Legal title to the Trust Estate shall be vested in the Property Trust as a separate legal entity.

Section 2.2 Declaration of Trust and Statement of Intent.

(a) The Trustee hereby declares that it shall hold the Trust Estate in trust for the benefit of the Beneficial Owner upon the terms set forth in this Property Trust Agreement.

(b) It is the intention of the parties that the Property Trust constitute a "statutory trust," the Trustee is a "trustee," the Manager is an "agent" of the Property Trust, the Beneficial Owner is a "beneficial owner," and this Property Trust Agreement is the "governing instrument" of the Property Trust, each within the respective meaning provided in the Statutory Trust Act.

Section 2.3 Purposes. The purposes of the Property Trust are to engage in the following activities: (i) to hold for investment and eventually dispose of the Real Estate; and (ii) to take only such other actions as the Manager deems necessary to carry out the foregoing.

ARTICLE 3

PROVISIONS RELATING TO THE LOAN AND TAX TREATMENT

Section 3.1 Article 3 Supersedes All Other Provisions of this Property Trust Agreement. This Article 3 contains certain provisions required by the Lender in connection with the Loan or intended to achieve the desired treatment of the Property Trust and Beneficial Interest for United States federal income tax purposes. To the extent of any inconsistency between this Article 3 and any other provision of this Property Trust Agreement, this Article 3 shall supersede and be controlling; provided, for the avoidance of doubt, that nothing in this Article 3 shall limit or impair the Property Trust's power and authority to execute and deliver, and to perform its obligations under, the Transaction Documents, and further provided that the requirements of this Article 3 shall be enforceable to the maximum extent permissible under the Statutory Trust Act.

Section 3.2 Provisions Relating to Loan.

(a) This Section 3.2 is intended to qualify the Property Trust as a "special purpose entity" for purposes of the Loan. The terms of this Property Trust Agreement are further limited by and subject to the provisions of the Financing Documents while the Loan is outstanding.

(b) To the fullest extent permitted by applicable law, neither the Manager nor the Trustee shall be authorized or empowered, nor shall it permit the Property Trust to file a petition for relief under title 11, United States Code (or any successor statute), to institute proceedings to have the Property Trust declared bankrupt or insolvent, or consent to the institution of bankruptcy or insolvency proceedings against the Property Trust, or file a petition seeking, or consent to, reorganization or relief with respect to the Property Trust under any applicable Federal or state law relating to bankruptcy, or consent to the appointment of a receiver, liquidator, assignee, bankruptcy trustee, sequestrator (or other similar official) of the Property Trust or a substantial part of the Trust Estate, or make any assignment for the benefit of creditors of the Property Trust, or admit in writing the Property Trust's inability to pay its debts generally as they become due, or take action in furtherance of any such action, or dissolve or

liquidate the Property Trust (subject to the provisions of Section 9.2), or consolidate or merge the Property Trust with or into any Person, or sell (subject to the provisions of Section 9.3) or exchange all or substantially all of the Trust Estate.

(c) The Manager shall cause the Property Trust to do or cause to be done all things necessary to preserve and keep in full force and effect its existence, rights and franchises. In furtherance of the foregoing, the Manager shall cause the Property Trust to:

- (1) not engage in any business unrelated to the acquisition, management, disposal and operation of the Real Estate;
- (2) not have any assets other than those related to the Real Estate;
- (3) remain solvent and pay its debts and liabilities from its assets as the same shall become due, and maintain adequate reserves for its normal obligations reasonably foreseeable in light of its contemplated operations;
- (4) correct any known misunderstanding regarding the separate identity of such entity;
- (5) not commingle its funds or assets with those of any Person;
- (6) hold its assets in its own name;
- (7) conduct its business in its own name;
- (8) have a sufficient number of employees (which may be none) in light of its contemplated business operations;
- (9) observe all trust formalities, as applicable;
- (10) have no indebtedness other than (i) the Loan, (ii) liabilities incurred relating to the ownership and operation of the Real Estate and the routine administration of the Property Trust, which liabilities are due not more than 60 days past the date incurred, are not evidenced by a note and are paid when due (unless disputed in accordance with applicable law), and which amounts are normal and reasonable under the circumstances, and (iii) such other liabilities that are permitted pursuant to the Financing Documents;
- (11) not assume or guarantee or become obligated for the debts of any other Person or hold out its credit as being available to satisfy the obligations of any other Person except as permitted pursuant to the Financing Documents;

- (12) not maintain or use invoices and checks bearing the name of any other Person;
- (13) not pledge its assets for the benefit of any other Person;
- (14) not make loans to any Person or hold evidence of indebtedness issued by any other Person or entity (except investments in indebtedness permitted under Section 7.2);
- (15) not identify its Beneficial Owner, or any Affiliate, as a division or part of it, and not identify itself as a division or part of any other Person;
- (16) not enter into or be a party to any transaction with its Beneficial Owner or Affiliates (for the avoidance of doubt, this clause (16) shall not apply to the transactions contemplated by Section 9.2 of this Property Trust Agreement); and
- (17) except as provided in the Financing Documents, not have any of its obligations guaranteed by any Affiliate.

Failure of the Manager to comply with any of the foregoing covenants or any other covenants contained in this Property Trust Agreement shall not affect the status of the Property Trust as a separate legal entity or the limited liability of the Beneficial Owner.

Section 3.3 Provisions Relating to Tax Treatment. It is the intention of the parties hereto that at all times the Property Trust shall constitute an "investment trust" within the meaning of Regulations Section 301.7701-4(c) and the Beneficial Owner shall be treated as a "grantor" within the meaning of Code Section 671. As such, the parties further intend that the Beneficial Owner shall be treated for federal income tax purposes as if it holds a direct ownership interest in the Real Estate. The Beneficial Owner agrees to report its interest in the Property Trust in a manner consistent with the foregoing and otherwise not to take any action that would be inconsistent with the foregoing. None of the Trustee, the Manager, the Beneficial Owner and/or the Property Trust shall have power and authority, or shall be authorized, and each of them is hereby expressly prohibited from taking, and none of them shall be allowed to take, any of the following actions:

- (1) sell, transfer or exchange the Real Estate except as required or permitted under Article 9;
- (2) reinvest any monies of the Property Trust, except to make modifications or repairs to the Real Estate permitted hereunder or in accordance with Section 7.2;

(3) renegotiate the terms of the Loan or enter into new financing, except in the case of Tenant's bankruptcy or insolvency;

(4) renegotiate the Lease or enter into new leases, except in the case of the Tenant's bankruptcy or insolvency;

(5) make modifications to the Real Estate (other than repairs and minor non-structural modifications) unless required by law;

(6) accept any capital from the Beneficial Owner; or

(7) take any other action which would in the opinion of tax counsel to the Property Trust cause the Property Trust to be treated as a business entity for federal income tax purposes if the effect would be that such action or actions would constitute a power under the Property Trust Agreement to "vary the investment of the certificate holders" under Regulations Section 301.7701-4(c)(1) and Rev. Rul. 2004-86, 2004-33 I.R.B. 191.

The Property Trust shall hold the Trust Estate for investment purposes and only lease the Real Estate to the Tenant. The activities of the Property Trust with respect to the Trust Estate shall be limited to the activities which are customary services in connection with the maintenance and repair of the Real Estate and none of the Trustee, the Beneficial Owner, the Manager nor their agents shall provide non-customary services, as such term is defined in Code Sections 512 and 856 and Rev. Rul. 75-374, 1975-2 C.B. 261. Without limiting the generality of the foregoing, (i) none of the Trustee, the Manager, the Beneficial Owner or the Property Trust shall have any power or authority to undertake any actions that are not permitted to be undertaken by an entity that is classified as a "trust" within the meaning of Regulations Section 301.7701-4 and not classified as a "business entity" within the meaning of Regulations Section 301.7701-3, and (ii) this Property Trust Agreement shall be interpreted and enforced so as to be in compliance with the requirements of Rev. Rul. 2004-86, 2004-33 I.R.B. 191.

For U.S. federal income tax purposes, the Property Trust is intended to be and shall constitute an "investment trust" within the meaning of Regulations Section 301.7701-4(c) and shall not constitute a "business entity."

ARTICLE 4 CONCERNING THE TRUSTEE

Section 4.1 Power and Authority. The Trustee shall have the power and authority, and is hereby authorized and empowered, to (i) accept legal process served on the Property Trust in the State of Delaware; and (ii) execute any certificates that are required to be executed under the Statutory Trust Act and file such certificates in the office of the Secretary of State, and take such

action or refrain from taking such action under this Property Trust Agreement as the Trustee may be directed in a writing delivered to the Trustee by the Manager; provided, however, that the Trustee shall not be required to take or refrain from taking any such action if the Trustee shall believe, or shall have been advised by counsel, that such performance is likely to involve the Trustee in personal liability or is contrary to the terms of this Property Trust Agreement or of any document contemplated hereby to which the Property Trust or the Trustee is or becomes a party or is otherwise contrary to law. The Manager agrees not to instruct the Trustee to take any action that is contrary to the terms of this Property Trust Agreement or of any document contemplated hereby to which the Property Trust or the Trustee is or becomes party or that is otherwise contrary to law. Other than as expressly provided for in this Property Trust Agreement, the Trustee shall have no duty to take any action for or on behalf of the Property Trust.

Section 4.2 Trustee May Request Direction. If at any time the Trustee determines that it requires or desires guidance regarding the application of any provision of this Property Trust Agreement or any other document, or regarding action that must or may be taken in connection herewith or therewith, or regarding compliance with any direction it received hereunder, then the Trustee may, at the expense of the Property Trust, apply to a court of applicable jurisdiction for an order as to the appropriate course of action to be taken by the Trustee, and such order from the court shall constitute full and complete authorization and protection for actions taken and other performance by the Trustee in reliance thereon. Until the Trustee has received such order after making such application, it shall be fully protected in refraining from taking any action with respect to the matters described in such application.

Section 4.3 Trustee's Capacity. In accepting the trust hereby created, CSC Trust Company of Delaware acts solely as Trustee hereunder and not in its individual capacity, and all Persons having any claim against the Trustee by reason of the transactions contemplated by this Property Trust Agreement, the Transaction Documents, or any other document shall look only to the Trust Estate for payment or satisfaction thereof. Notwithstanding any provision of this Property Trust Agreement or any other document to the contrary, under no circumstances shall CSC Trust Company of Delaware, in its individual capacity or in its capacity as Trustee, (i) except as set forth in Section 5.7, have any duty to choose or supervise, nor shall it have any liability for the actions or inactions of, the Manager or any officer, manager, employee, or other Person (other than CSC Trust Company of Delaware and its own employees), or (ii) be liable or responsible for, or obligated to perform, any contract, representation, warranty, obligation or liability of the Property Trust, the Manager, or any officer, manager, employee, or other Person (other than CSC Trust Company of Delaware and its own employees); provided, however, that this limitation shall not protect CSC Trust Company of Delaware against any liability to the Beneficial Owner to which it would otherwise be subject by reason of its willful misconduct, bad faith, fraud or gross negligence in the performance of its duties under this Property Trust Agreement.

Section 4.4 Duties. None of the Trustee or any successor trustee shall have any duty or obligation under or in connection with this Property Trust Agreement, the Property Trust, or any transaction or document contemplated hereby, except as expressly provided by the terms of this Property Trust Agreement, and no implied duties or obligations shall be read into this Property Trust Agreement against the Trustee or any successor trustee. The right of the Trustee

to perform any discretionary act enumerated herein shall not be construed as a duty. To the fullest extent permitted by applicable law, including without limitation Section 3806 of the Statutory Trust Act, the Trustee's or any successor trustee's duties (including fiduciary duties) and liabilities relating to the Property Trust and the Beneficial Owner shall be restricted to those duties (including fiduciary duties) and liabilities expressly set forth in this Property Trust Agreement.

Section 4.5 Indemnification. The Beneficial Owner hereby agrees to (i) reimburse the Trustee or any successor trustee for all reasonable expenses (including reasonable fees and expenses of counsel and other professionals), incurred in connection with the negotiation, execution, delivery, or performance of, or exercise of rights or powers under, this Property Trust Agreement, (ii) to the fullest extent permitted by law, indemnify, defend and hold harmless the Trustee or any successor trustee, and the officers, directors, employees and agents of the Trustee (collectively, including the Trustee or any successor trustee in its individual capacity, the "*Trustee Indemnified Persons*") from and against any and all losses, damages, liabilities, claims, actions, suits, costs, expenses, disbursements (including the reasonable fees and expenses of counsel and other professionals), taxes and penalties of any kind and nature whatsoever (collectively, "*Trustee Covered Expenses*"), to the extent that such Trustee Covered Expenses arise out of or are imposed upon or asserted at any time against such Trustee Indemnified Persons, including without limitation on the basis of ordinary negligence on the part of any such Trustee Indemnified Persons, with respect to or in connection with this Property Trust Agreement, the Property Trust, or any transaction or document contemplated hereby; provided, however, that the Beneficial Owner shall not be required to indemnify a Trustee Indemnified Person for Trustee Covered Expenses to the extent such Trustee Covered Expenses result from the willful misconduct, bad faith, fraud or gross negligence of such Trustee Indemnified Person, and (iii) to the fullest extent permitted by law, advance to each such Trustee Indemnified Person Trustee Covered Expenses incurred by such Trustee Indemnified Person in defending any claim, demand, action, suit or proceeding, in connection with this Property Trust Agreement, the Property Trust, or any transaction or document contemplated hereby, prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Beneficial Owner of an undertaking, by or on behalf of such Trustee Indemnified Person, to repay such amount if a court of competent jurisdiction renders a final, nonappealable judgment that includes a specific finding of fact that such Trustee Indemnified Person is not entitled to be indemnified therefor under this Section 4.5. The obligations of the Beneficial Owner under this Section 4.5 shall survive the resignation or removal of the Trustee, shall survive the dissolution and termination of the Property Trust, and shall survive the termination, amendment, supplement, and/or restatement of this Property Trust Agreement; provided, however, the Beneficial Owner shall be released from and relieved of any and all obligations under this Section 4.5 that relate to any acts or events occurring in their entirety after the date on which the Beneficial Owner no longer owns any Beneficial Interest in the Trust. The obligations of the Beneficial Owner under this Section 4.5 shall be personal obligations irrespective of the sufficiency or insufficiency of the Trust Estate to satisfy any such obligations.

Section 4.6 Removal; Resignation; Succession. The Trustee may resign at any time by giving at least 60 days' prior written notice to the Manager. The Manager may at any time remove the Trustee for cause by written notice to the Trustee. Cause shall only result from the

willful misconduct, bad faith, fraud or gross negligence of the Trustee. Such resignation or removal shall be effective upon the acceptance of appointment by a successor trustee as hereinafter provided. In case of the removal or resignation of a trustee, and with the prior written consent of Lender while the Loan is outstanding, the Manager may appoint a successor by written instrument. If a successor trustee shall not have been appointed within 60 days after the giving of such notice, the Trustee (at the expense of the Property Trust) or the Beneficial Owner may apply to any court of competent jurisdiction in the United States to appoint a successor trustee to act until such time, if any, as a successor shall have been appointed as provided above; provided the Lender approves such appointment during any period in which the Loan remains outstanding. Any successor so appointed by such court shall immediately and without further act be superseded by any successor appointed as provided above within one year from the date of the appointment by such court. Any successor, however appointed, shall execute and deliver to its predecessor trustee an instrument accepting such appointment, and thereupon such successor, without further act, shall become vested with all the estates, properties, rights, powers, duties and trusts of the predecessor trustee in the trusts hereunder with like effect as if originally named the Trustee herein; but upon the written request of such successor, such predecessor shall execute and deliver an instrument transferring to such successor, upon the trusts herein expressed, all the estates, properties, rights, powers, duties and trusts of such predecessor, and such predecessor shall duly assign, transfer, deliver and pay over to such successor all monies or other property then held by such predecessor upon the trusts herein expressed. Any right of the Beneficial Owner against a predecessor trustee in its individual capacity shall survive the resignation or removal of such predecessor, shall survive the dissolution and termination of the Property Trust, and shall survive the termination, amendment, supplement, and/or restatement of this Property Trust Agreement.

Any successor trustee, however appointed, shall be a bank or trust company satisfying the requirements of Section 3807(a) of the Statutory Trust Act. Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Trustee shall be a party, or any corporation to which substantially all the corporate trust business of the Trustee may be transferred, shall, subject to the preceding sentence, be the Trustee under this Property Trust Agreement without further act.

Section 4.7 Fees and Expenses. CSC Trust Company of Delaware shall receive as compensation for its services hereunder the amounts set forth on Exhibit E. The Trustee shall not have any obligation by virtue of this Property Trust Agreement to spend any of its own funds, or to take any action that could result in its incurring any cost or expense.

ARTICLE 5 CONCERNING THE MANAGER

Section 5.1 Power and Authority. The investment activities and affairs of the Property Trust shall be managed exclusively by or under the direction of the Manager. The Manager shall have the power and authority, and is hereby authorized and empowered, to manage the Trust Estate and the investment activities and affairs of the Property Trust, subject to and in accordance with the terms and provisions of this Property Trust Agreement, provided that the Manager shall have no power to engage on behalf of the Property Trust in any activities that the Property Trust could not engage in directly, and further provided that the Manager shall at all times be subject to the control and authority of the Property Trust. The Manager shall have the power and authority, and is hereby authorized, empowered, and directed by the Property Trust, to enter into, execute and deliver, and to cause the Property Trust to perform its obligations under, each of the Transaction Documents to which the Property Trust is or becomes a party or signatory

Section 5.2 Manager's Capacity. The Manager acts solely as an agent of the Property Trust and not in its individual capacity, and all Persons having any claim against the Manager by reason of the transactions contemplated by this Property Trust Agreement, the Transaction Documents, or any other document shall look only to the Trust Estate for payment or satisfaction thereof. Notwithstanding any provision of this Property Trust Agreement to the contrary, the Manager shall not have any liability to any Person except for its own willful misconduct, bad faith, fraud or gross negligence.

Section 5.3 Duties.

(a) The Manager has primary responsibility for performing the administrative actions set forth in this Section 5.3. In addition, the Manager shall have the obligations with respect to a potential sale of the Trust Estate as set forth in Article 9. The Manager shall not have any duty or obligation under or in connection with this Property Trust Agreement, the Property Trust, or any transaction or document contemplated hereby, except as expressly provided by the terms of this Property Trust Agreement, and no implied duties or obligations shall be read into this Property Trust Agreement against the Manager. The right of the Manager to perform any discretionary act enumerated herein shall not be construed as a duty. To the fullest extent permitted by applicable law, including without limitation Section 3806 of the Statutory Trust Act, the Manager's duties (including fiduciary duties) and liabilities to the Property Trust and the Beneficial Owner shall be restricted to those duties (including fiduciary duties) and liabilities expressly set forth in this Property Trust Agreement.

(b) Without limiting the generality of Section (a) above, the Manager, for and on behalf of the Property Trust, is hereby authorized and directed to take each of the following actions necessary to conserve and protect the Trust Estate:

- (1) complying with the terms of the Financing Documents;

(2) collecting rents and making distributions in accordance with Article 7;

(3) entering into any agreement for purposes of completing tax-free exchanges of real property with a "qualified intermediary" as defined in Section 1031 of the Code;

(4) notifying the relevant parties of any default by them under the Transaction Documents;

(5) making or causing to be made any repairs necessary to maintain the Real Estate;

(6) solely to the extent necessitated by the bankruptcy or insolvency of the Tenant or any other tenant of the Real Estate, if the Property Trust has not terminated under Section 9.2, entering into a new lease with respect to the Real Estate or renegotiating or refinancing any debt secured by the Real Estate (including, without limitation, the Loan); and

(7) any action, which in the unqualified opinion of tax counsel to the Property Trust, would not have an adverse effect on either the treatment of the Property Trust as an "investment trust" within the meaning of Regulations Section 301.7701-4(c) or the Beneficial Owner as a "grantor" within the meaning of Code Section 671.

The foregoing notwithstanding, under no circumstances shall the power or authority of the Manager include the ability to take any actions which would cause the Property Trust to cease to constitute an "investment trust" within the meaning of Regulations Section 301.7701-4(c). The power and authority of the Manager shall be strictly and narrowly construed so as to preserve and protect the status of the Property Trust as an "investment trust" for U.S. federal income tax purposes.

(c) The Manager shall keep customary and appropriate books and records relating to the Property Trust and the Trust Estate and shall certify reports regarding same to the Lender, if required by the Financing Documents. The Manager shall maintain appropriate books and records in order to provide reports of income and expenses to the Beneficial Owner as necessary for the Beneficial Owner to prepare its income tax returns regarding the Trust Estate.

(d) The Manager shall promptly furnish to the Beneficial Owner copies of all reports, notices, requests, demands, certificates, financial statements and any other writings required to be distributed to it pursuant to the Transaction Documents, unless the Manager reasonably believes the same to have been sent directly to the Beneficial Owner, and promptly shall furnish to the Lender those documents as required by the Financing Documents.

(e) The Manager shall not be required to act or refrain from acting under this Property Trust Agreement or the Financing Documents if the Manager reasonably determines, or

has been advised by counsel, that such actions may result in personal liability, unless the Manager is indemnified by the Property Trust and the Beneficial Owner against any liability and costs (including reasonable legal fees and expenses) which may result in a manner and form reasonably satisfactory to the Manager.

(f) The Manager shall not, on its own behalf (in contrast to actions that the Manager is required to perform on behalf of the Property Trust), have any duty to (i) file, record or deposit any document or to maintain any such filing, recording or deposit or to refile, rerecord or redeposit any such document, (ii) obtain or maintain any insurance on the Real Estate, (iii) maintain the Real Estate, (iv) pay or discharge any tax levied against any part of the Trust Estate, (v) confirm, verify, investigate or inquire into the failure to receive any reports or financial statements from any party obligated under the Financing Documents to provide such, or (vi) inspect the Real Estate at any time or to ascertain or inquire as to the performance or observance of any of the covenants of any Person under the Financing Documents.

(g) The Manager shall manage, control, dispose of or otherwise deal with the Trust Estate consistent with its duties to conserve and protect the Trust Estate, subject to any restrictions required by the Financing Documents, or otherwise provided in this Property Trust Agreement.

(h) Upon its receipt of a written request to do so, the Manager shall provide to each Person who becomes a Beneficial Owner a copy of this Property Trust Agreement.

(i) The Manager shall provide to the Trustee a copy of the Ownership Records contemporaneously with each revision thereto.

Section 5.4 Indemnification. The Beneficial Owner hereby agrees to (i) reimburse the Manager for all reasonable expenses (including reasonable fees and expenses of counsel and other professionals), incurred in connection with the negotiation, execution, delivery, or performance of, or exercise of rights or powers under, this Property Trust Agreement, (ii) to the fullest extent permitted by law, indemnify, defend and hold harmless the Manager, and the officers, directors, employees and agents of the Manager (collectively, including without limitation the Manager and its direct and indirect owners in their individual capacities, the "*Manager Indemnified Persons*") from and against any and all losses, damages, liabilities, claims, actions, suits, costs, expenses, disbursements (including the reasonable fees and expenses of counsel and other professionals), taxes and penalties of any kind and nature whatsoever (collectively, the "*Manager Covered Expenses*"), to the extent that such Manager Covered Expenses arise out of or are imposed upon or asserted at any time against such Manager Indemnified Persons, including without limitation on the basis of ordinary negligence on the part of any such Manager Indemnified Persons, with respect to or in connection with this Property Trust Agreement, the Property Trust, or any transaction or document contemplated hereby; provided, however, that the Beneficial Owner shall not be required to indemnify a Manager Indemnified Person for Manager Covered Expenses to the extent such Manager Covered Expenses result from the willful misconduct, bad faith, fraud or gross negligence of such Manager Indemnified Person, and (iii) to the fullest extent permitted by law, advance to each such Manager Indemnified Person Manager Covered Expenses incurred by such Manager

Indemnified Person in defending any claim, demand, action, suit or proceeding, in connection with this Property Trust Agreement, the Property Trust, or any transaction or document contemplated hereby, prior to the final disposition of such claim, demand, action, suit or proceeding upon receipt by the Beneficial Owner of an undertaking, by or on behalf of such Manager Indemnified Person, to repay such amount unless a court of competent jurisdiction renders a final, nonappealable judgment that includes a specific finding of fact that such Manager Indemnified Person is not entitled to be indemnified therefor under this Section 5.4. The obligations of the Beneficial Owner under this Section 5.4 shall survive the resignation or removal of the Manager, shall survive the dissolution and termination of the Property Trust, and shall survive the termination, amendment, supplement, and/or restatement of this Property Trust Agreement; provided, however, the Beneficial Owner shall be released from and relieved of any and all obligations under this Section 5.4 that relate to any acts or events occurring in their entirety after the date on which the Beneficial Owner no longer owns any Beneficial Interest in the Trust. The obligations of the Beneficial Owner under this Section 5.4 shall be personal obligations irrespective of the sufficiency or insufficiency of the Trust Estate to satisfy any such obligations.

Section 5.5 Fees and Expenses. Other than the fee contemplated by Section 9.4, the Manager shall not receive as compensation for its services as Manager hereunder. The Manager shall not have any obligation by virtue of this Property Trust Agreement to spend any of its own funds, or to take any action that could result in its incurring any cost or expense.

Section 5.6 Sale of Trust Estate by Manager Is Binding. Any sale or other conveyance of the Trust Estate or any part thereof by the Manager made for and on behalf of the Property Trust pursuant to the terms of this Property Trust Agreement shall bind the Property Trust and the Beneficial Owner and be effective to transfer or convey all rights, title and interest of the Property Trust and the Beneficial Owner in and to the Trust Estate.

Section 5.7 Removal/ Resignation; Succession. The Manager may resign at any time by giving at least sixty (60) days' prior written notice to the Trustee. The Manager may be removed for cause as provided in this Section 5.7. If the Trustee receives written notice from the Beneficial Owners of the Master Trust that that Beneficial Owners holding more than fifty percent (50%) of the Class 1 Beneficial Interests in the Master Trust believe that there is cause to remove the Manager, then the Trustee shall provide notice to the Manager that there is sufficient reason to believe there is cause to remove the Manager (a "Cause Notice"). Such Cause Notice will provide that the Manager must either resign or that the issue of whether there is cause to remove the Manager shall be determined by arbitration in accordance with Section 10.10. Cause shall only result from the willful misconduct, bad faith, fraud or gross negligence of the Manager, as determined by arbitration under the procedures described in Section 10.10. The Manager will be removed upon a determination of cause. Such resignation or removal shall be effective upon the acceptance of appointment by a successor Manager as hereinafter provided. In case of the removal or resignation of the Manager, the Trustee, with the prior written consent of the Lender while the Loan is outstanding, may appoint a successor by written instrument. If a successor Manager shall not have been appointed within sixty (60) days after the giving of such notice, the Manager or the Beneficial Owner may apply to any court of competent jurisdiction in the United States to appoint a successor Manager to act until such time, if any, as a successor

shall have been appointed as provided above, provided that the Lender approves such appointment during any period in which the Loan is outstanding. Any successor so appointed by such court shall immediately and without further act be superseded by a successor appointed as provided above within one (1) year from the date of the appointment by such court. Any successor, however appointed, shall execute and deliver to its predecessor Manager an instrument accepting such appointment, and thereupon such successor, without further act, shall become vested with all the rights, powers and duties of the predecessor Manager in the trusts hereunder with like effect as if originally named the Manager herein; but upon the written request of such successor, such predecessor shall execute and deliver an instrument transferring to such successor, upon the trusts herein expressed, all the rights, powers and duties of such predecessor. Any right of the Beneficial Owner against a predecessor Manager in its individual capacity shall survive the resignation or removal of such predecessor Manager, shall survive the dissolution and termination of the Property Trust, and shall survive the termination, amendment, supplement, and/or restatement of this Property Trust Agreement.

ARTICLE 6

BENEFICIAL INTERESTS

Section 6.1 Issuance of Beneficial Ownership Certificate.

(a) Simultaneous with the execution of this Property Trust Agreement, the Property Trust will issue a Beneficial Ownership Certificate to the Master Trust evidencing 100% of the Beneficial Interest in the Property Trust. The Beneficial Ownership Certificate (w) shall be printed and dated the date of its execution, (x) shall be printed, lithographed, typewritten, mimeographed, photocopied or otherwise produced in any other manner as may, consistent herewith, be determined by the Manager, (y) may have such insertions, omissions, substitutions and other variations as are required by this Property Trust Agreement and (z) may have such letters, numbers or other marks of identification and such legends and endorsements placed thereon as may, consistent herewith, be approved by the Manager. Any portion of any Beneficial Ownership Certificate may be set forth on the reverse or subsequent pages thereof.

(b) The Manager is hereby authorized to execute each Beneficial Ownership Certificate for and on behalf of the Property Trust by the manual signature of any duly authorized officer of the Manager, such execution to constitute the authentication thereof.

(c) Each Beneficial Ownership Certificate bearing the manual signature of any individual who at the time such Beneficial Ownership Certificate was executed was a duly authorized officer of the Manager shall bind the Property Trust, notwithstanding that any such individual has ceased to hold such office or to be a duly authorized officer of the Manager prior to the delivery of such Beneficial Ownership Certificate or at any time thereafter. No Beneficial Ownership Certificate shall be valid for any purpose unless it is executed on behalf of the Property Trust by the Manager. The signature of a duly authorized officer of the Manager on any Beneficial Ownership Certificate shall be conclusive evidence that such Beneficial Ownership Certificate has been duly executed and authenticated under this Property Trust Agreement.

Section 6.2 Ownership Records. The Manager shall at all times be the Person at whose office a Beneficial Ownership Certificate may be presented or surrendered for registration of transfer or for exchange and where notices and demands to or upon the Property Trust in respect of a Beneficial Ownership Certificate may be served. The Manager shall keep Ownership Records, which shall include records of the transfer and exchange of the Beneficial Interest. Notwithstanding any provision of this Property Trust Agreement to the contrary, transfer of the Beneficial Interest in the Property Trust, or of any right, title or interest therein, shall occur only upon and by virtue of the entry of such transfer in the Ownership Records. In the event of any transfer permitted under the terms of this Property Trust Agreement, the Manager shall issue a new Beneficial Ownership Certificate and the transferring Beneficial Owner shall surrender its Beneficial Ownership Certificate for cancellation. Except as specifically permitted by Sections 6.4, 6.5 and 6.6, a Beneficial Ownership Certificate shall be non-transferable and may not be negotiated, endorsed or otherwise transferred to a holder.

Section 6.3 Mutilated, Destroyed, Lost or Stolen Beneficial Ownership Certificate. If the Beneficial Ownership Certificate shall become mutilated, destroyed, lost or stolen, the Property Trust shall, upon the written request of the then-holder of the Beneficial Ownership Certificate and presentation of the Beneficial Ownership Certificate or satisfactory evidence of destruction, loss or theft thereof to the Manager, issue and deliver in exchange therefor or in replacement thereof, a new Beneficial Ownership Certificate in the name of such Beneficial Owner evidencing the same Beneficial Interest and dated the date of its execution. If the Beneficial Ownership Certificate being replaced has become mutilated, such Beneficial Ownership Certificate shall be surrendered to the Manager. If the Beneficial Ownership Certificate being replaced has been destroyed, lost or stolen, the Beneficial Owner thereof shall furnish to the Property Trust and the Manager (i) a written indemnity by such Beneficial Owner to the Property Trust and the Manager which provides for such Person to save the Property Trust and the Manager harmless; and (ii) evidence satisfactory to the Property Trust and the Manager of the destruction, loss or theft of such Beneficial Ownership Certificate and of the ownership thereof. The applicable Beneficial Owner shall pay any tax imposed in connection therewith.

Section 6.4 Restrictions on Transfer. The Beneficial Interest, or any portion thereof, may not be assigned, transferred, encumbered, pledged or otherwise conveyed unless the Manager consents in writing to such assignment, transfer, encumbrance, pledge or conveyance, which consent may be withheld for any reason or no reason whatsoever. If given, consent will be conditioned on (i) evidence of compliance by the Beneficial Owner with the terms and conditions contained in Section 6.5, (ii) a determination by the Manager that such assignment, transfer, pledge, encumbrance or conveyance will not violate any applicable securities laws or the terms of Section 6.6, and (iii) such other conditions as the Manager may determine in its sole discretion. All expenses of any such transfer, including those of the Property Trust, Trustee and Manager, shall be paid by the transferring Beneficial Owner.

Section 6.5 Conditions to Admission of New Beneficial Owner. Any assignee or transferee of a Beneficial Owner shall only become a Beneficial Owner upon such assignee's or transferee's written acceptance and adoption of this Property Trust Agreement, plus the issuance of a new Beneficial Ownership Certificate to such assignee or transferee, copies of which will be provided by the Manager to the Property Trustee.

Section 6.6 Limit on Number of Beneficial Owners. Notwithstanding anything to the contrary in this Property Trust Agreement, at no time shall the number of Beneficial Owners exceed one (1) Person. Any transfer that results in a violation of the preceding sentence shall, to the fullest extent permitted by law, be null, void and of no effect whatsoever.

Section 6.7 Representations and Acknowledgements of Beneficial Owner. The Beneficial Owner hereby represents and warrants that it (i) is not acquiring its Beneficial Interest with a view to any distribution thereof in a transaction that would violate the Securities Act or the securities laws of any state of the United States; and (ii) is aware of the restrictions on transfer that are applicable to the Beneficial Interest and will not offer, sell, pledge or otherwise transfer its Beneficial Interest except in compliance with all applicable securities laws and regulations. Beneficial Owner hereby acknowledges that (y) its Beneficial Interest may not be sold, transferred or otherwise disposed of unless expressly permitted hereunder and it is registered or qualified under the Securities Act and all other applicable laws of any applicable jurisdiction or an exemption therefrom is available in accordance with all other laws of any applicable jurisdiction; and (z) its Beneficial Interest has not been and is not expected to be registered under the Securities Act, and accordingly, its Beneficial Interest is subject to restrictions on transfer.

Section 6.8 Limitation of Liability. Notwithstanding anything herein to the contrary, to the fullest extent permitted by the Statutory Trust Act the Beneficial Owner shall have no liability with respect to the Property Trust or the assets of the Property Trust.

Section 6.9 No Legal Title to Trust Estate. The Beneficial Owner shall not have legal title to the Trust Estate. The dissolution, termination or bankruptcy of the Beneficial Owner shall not result in the termination or dissolution of the Trust.

Section 6.10 In-Kind Distributions; Waivers. Except as expressly provided herein, the Beneficial Owner has neither (i) an interest in specific Property Trust property nor (ii) any right to demand and receive from the Property Trust an in-kind distribution of the Trust Estate or any portion thereof. The Beneficial Owner expressly waives any right, under the Statutory Trust Act to seek a judicial dissolution of the Property Trust, to terminate the Property Trust (other than any right provided in Article 9 hereof, if any), or, to the fullest extent permitted by law, to partition the Trust Estate. In addition, the Beneficial Owner expressly waives any right, to the fullest extent permitted by law, to file a petition in bankruptcy on behalf of the Property Trust or take any action that consents to, aids, supports, solicits or otherwise cooperates in the filing of an involuntary bankruptcy proceeding involving the Property Trust.

Section 6.11 Rights and Powers of Beneficial Owner. The Beneficial Owner shall only have the right to receive distributions from the Property Trust as a result of the operations or sale of the Real Estate. The Beneficial Owner shall not have the right or power to direct in any manner the Property Trust or the Manager in connection with the operation of the Property Trust or the actions of the Trustee or the Manager. In addition, the Beneficial Owner shall not have the right or power to:

- (a) contribute additional assets to the Property Trust;

- (b) be involved in any manner in the operation or management of the Property Trust or its assets;
- (c) cause the Property Trust to negotiate or re-negotiate loans or leases; or
- (d) cause the Property Trust to sell its assets and re-invest the proceeds of such sale.

Any attempt by the Beneficial Owner to exercise any such right or power shall be null and void and shall not cause the Beneficial Owner to have duties (including fiduciary duties) or liabilities relating thereto to the Property Trust, the Trustee or the Manager.

ARTICLE 7 DISTRIBUTIONS AND REPORTS

Section 7.1 Payments From Trust Estate Only. All payments to be made by the Manager under this Property Trust Agreement shall be from the Trust Estate.

Section 7.2 Distributions in General. After payment of all amounts required under the Financing Documents, the Manager shall distribute all available cash generated by the Trust Estate to the Beneficial Owner on a monthly basis, after paying or reimbursing the Manager for any fees or expenses paid by the Manager on behalf of the Property Trust and retaining such additional amounts as the Manager determines are necessary to pay anticipated ordinary current and future Property Trust expenses ("Reserves"). Reserves and any other cash retained pursuant to this paragraph shall be invested by the Manager only in short-term obligations of (or guaranteed by) the United States, or any agency or instrumentality thereof and in certificates of deposit or interest-bearing bank accounts of any bank or trust companies. All such obligations must mature prior to the next distribution date, and be held to maturity. All amounts distributable to the Beneficial Owner pursuant to this Property Trust Agreement shall be paid by check or in immediately available funds by transfer to a banking institution with bank wire transfer facilities for the account of the Beneficial Owner, as instructed from time to time by the Beneficial Owner on the last Business Day of each calendar month.

Section 7.3 Distribution Upon Dissolution. In the event of the Property Trust's dissolution in accordance with Article 9 hereof, all of the Trust Estate as may then exist after the winding up of its affairs in accordance with the Statutory Trust Act (including without limitation subsections (d) and (e) of Section 3808 of the Statutory Trust Act and providing for all costs and expenses, including any income or transfer taxes which may be assessed against the Property Trust, whether or not by reason of the dissolution of the Property Trust), shall, subject to Section 9.2, be distributed to the Beneficial Owner.

Section 7.4 Cash and other Accounts; Reports by the Manager. The Manager shall be responsible for receiving all cash from the Tenant and placing such cash into one or more accounts as required under the distribution and investment obligations of the Property Trust under Section 7.2. The Manager shall furnish annual reports to the Beneficial Owner as to the

amounts of rent received from the Tenant, the expenses incurred by the Property Trust with respect to the Real Estate (if any), the amount of any Reserves and the amount of the distributions made by the Property Trust to the Beneficial Owner.

ARTICLE 8

RELIANCE; REPRESENTATIONS; COVENANTS

Section 8.1 Good Faith Reliance. Neither the Trustee nor the Manager shall incur any liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper reasonably and in good faith believed by such Person to be genuine and signed by the proper party or parties thereto. As to any fact or matter, the manner of ascertainment of which is not specifically described herein, the Trustee and the Manager may for all purposes hereof rely on a certificate, signed by or on behalf of the Person executing such certificate, as to such fact or matter, and such certificate shall constitute full protection of the Trustee and the Manager for any action taken or omitted to be taken by them in good faith in reliance thereon, and the Trustee and the Manager may conclusively rely upon any certificate furnished to such Person that on its face conforms to the requirements of this Property Trust Agreement. Each of the Trustee and the Manager may (i) exercise its powers and perform its duties by or through such attorneys and agents as it shall appoint with due care, and it shall not be liable for the acts or omissions of such attorneys and agents; and (ii) consult with counsel, accountants and other experts, and shall be entitled to rely upon the advice of counsel, accountants and other experts selected by it in good faith and shall be protected by the advice of such counsel and other experts in anything done or omitted to be done by it in accordance with such advice. In particular, no provision of this Property Trust Agreement shall be deemed to impose any duty on the Trustee or the Manager to take any action if such Person shall have been advised by counsel that such action may involve it in personal liability or is contrary to the terms hereof or to applicable law. For all purposes of this Property Trust Agreement, the Trustee shall be fully protected in relying upon the most recent Ownership Records delivered to it by the Manager.

Section 8.2 No Representations or Warranties as to Certain Matters. NEITHER THE TRUSTEE NOR THE MANAGER, EITHER WHEN ACTING HEREUNDER IN ITS CAPACITY AS TRUSTEE OR MANAGER OR IN ITS INDIVIDUAL CAPACITY, MAKES OR SHALL BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE TITLE, LOCATION, VALUE, CONDITION, WORKMANSHIP, DESIGN, COMPLIANCE WITH SPECIFICATIONS, CONSTRUCTION, OPERATION, MERCHANTABILITY OR FITNESS FOR USE FOR A PARTICULAR PURPOSE OF THE TRUST ESTATE OR ANY PART THEREOF, AS TO THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE, AS TO THE ABSENCE OF ANY INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT, AS TO THE ABSENCE OF OBLIGATIONS BASED ON STRICT LIABILITY IN TORT, OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE TRUST ESTATE OR ANY PART THEREOF.

Neither the Trustee nor the Manager makes any representation or warranty as to (i) the title, value, condition or operation of the Real Estate, and (ii) the validity or enforceability of Transaction Documents or as to the correctness of any statement contained in any thereof, except as expressly made by the Trustee or the Manager in its individual capacity. Each of the Trustee and the Manager represents and warrants to the Beneficial Owner that it has authorized, executed and delivered the Property Trust Agreement.

ARTICLE 9 TERMINATION

Section 9.1 Termination in General. The Property Trust shall not have perpetual existence and instead shall be dissolved and wound up in accordance with Section 3808 of the Statutory Trust Act upon the first to occur of a Transfer Distribution or the sale of the Trust Estate pursuant to Section 9.3, at which time the Trust Estate shall be distributed to the Beneficial Owner in accordance with Section 7.3. Notwithstanding anything in this Section 9.1 or this Property Trust Agreement to the contrary, the Property Trust shall dissolve and wind up not later than 21 years after the death of the last living descendant of Barack Obama, the 44th President of the United States, who was alive on the Effective Date.

Section 9.2 Termination to Protect and Conserve Trust Estate. Subject to the terms and conditions of the Financing Documents, following a determination by the Manager, in writing, that the dissolution of the Property Trust is necessary and appropriate to preserve and protect the Trust Estate for the benefit of the Beneficial Owner because (i) the Tenant has failed to timely pay rent due under the Lease after the expiration of any applicable notice and cure provisions in the Lease, if any, (ii) the Trust Estate is in jeopardy of being lost due to a default on the Loan, (iii) the Tenant files for bankruptcy, seeks appointment of a receiver, makes an assignment for the benefit of its creditors or there occurs any similar event, (iv) the Loan will commence hyper-amortization within ninety (90) days under which all cash flow from the Real Estate will need to be utilized to pay down the principal and interest on the Loan, (v) the Trust Estate or any portion thereof is subject to a casualty, condemnation or similar event, (vi) the Manager needs to take one of the actions enumerated in Section 3.3, (vii) the Beneficial Owner dissolves, is terminated or files for bankruptcy, or (viii) at any time after the Property Trust has held the Trust Estate for at least four years, the Manager determines, in its sole discretion, that a Transfer Distribution (defined below) should be made, the Property Trust shall dissolve and wind up in accordance with Section 3808 of the Statutory Trust Act and the Trust Estate shall be distributed to the Beneficial Owner in accordance with this Section 9.2 in full and complete satisfaction of its Beneficial Ownership Interest. Subject to the requirements of Section 3808 of the Statutory Trust Act, immediately before any such liquidating distribution, and only in the event that a distribution would otherwise be made to the Beneficial Owner under this Section 9.2, the Manager shall transfer title to the assets comprising the Trust Estate to a newly formed Delaware limited liability company (the "LLC") that is governed by a limited liability company agreement substantially similar to that set forth in Exhibit D (the "**Transfer Distribution**"). As part of the Transfer Distribution, the Manager shall cause the limited liability company interests in the LLC to be distributed to the Beneficial Owner in complete satisfaction of its Beneficial Interest and its Beneficial Ownership Certificate in order to consummate the dissolution of the

Property Trust. It is the express intent of this Property Trust Agreement that no distribution be made under this Section 9.2 except in the rare and unexpected situation in which such distribution is necessary to prevent the loss of the Trust Estate. To the fullest extent permitted by applicable law, the Manager shall be fully protected in any such determination made in good faith, and shall have no liability to any Person, including without limitation the Beneficial Owner, with respect thereto. If a determination has been made to dissolve the Property Trust under this Section 9.2, the Manager may, in its discretion and upon advice of counsel, utilize such other form of transaction (including, without limitation, a conversion of the Property Trust into a limited partnership, limited liability partnership or limited liability company if then permitted by applicable law) to accomplish the intent of the transaction contemplated by the Transfer Distribution, provided that such alternative form of transaction is entered into to preserve and protect the Trust Estate for the benefit of the Beneficial Owner and is in compliance with the Statutory Trust Act.

Section 9.3 Sale of the Trust Estate. The Trustee shall sell the Trust Estate, and is authorized and directed to sell the Trust Estate, at any time after the second anniversary of the Closing Date upon receipt of a notice from the Manager that the Manager has determined (in its sole discretion) that a sale of the Trust Estate is appropriate. Any such sale of the Trust Estate shall occur as soon as practicable after the Manager has determined that the sale of the Trust Estate is appropriate. Immediately following such sale, the Property Trust shall dissolve and wind up in accordance with Section 3808 of the Statutory Trust Act. The Manager shall be responsible for (i) determining the fair market value of the Trust Estate, (ii) providing notice to the Trustee that the Trust Estate should be sold, (iii) conducting the sale of the Trust Estate, and (iv) subject to Section 3808 of the Statutory Trust Act, after paying all amounts due to the Trustee and Manager hereunder, and the Lender, if any, distributing the balance of the proceeds (net of any closing costs payable by the Property Trust, including any fee payable to the Manager pursuant to Section 9.4) to the Beneficial Owner in full and complete satisfaction of its Beneficial Ownership Interest. The Manager and the Trustee are expressly instructed to take all reasonable action that would enable the sale to qualify, with respect to the Investors, as a like-kind exchange within the meaning of Section 1031 of the Code. Any sale of the Trust Estate shall be on an "as is, where is" basis and without any representations or warranties by the Trustee or the Manager (other than as to ownership of the Trust Estate and authority to enter into the sale).

Section 9.4 Manager Fee on Sale. The Manager shall receive a fee from the Property Trust equal to 2% of the gross proceeds of any sale of the Trust Estate under Section 9.3, such amount to be reduced by any payments to third-party real estate brokers.

Section 9.5 Distribution Upon Sale or Transfer Distribution. It is the express understanding of the parties hereto that upon a Transfer Distribution under Section 9.2 or a sale under Section 9.3, the Master Trust shall distribute on a pro-rata basis, upon its receipt of the same, the limited liability company interests in the LLC or the net proceeds of the sale, respectively, to the holders of the Class 1 Master Trust Beneficial Ownership Certificates and Class 2 Master Trust Beneficial Ownership Certificate.

Section 9.6 Certificate of Cancellation. Upon the completion of the dissolution and winding up of the Property Trust, the Certificate of Trust shall be cancelled by the Trustee who, upon the written direction of the Manager, shall execute and cause a certificate of cancellation to be filed in the office of the Secretary of State.

ARTICLE 10 MISCELLANEOUS

Section 10.1 Limitations on Rights of Others. Nothing in this Property Trust Agreement, whether express or implied, shall give to any Person other than the Trustee, the Manager, the Beneficial Owner, and the Property Trust any legal or equitable right, remedy or claim hereunder.

Section 10.2 Successors and Assigns. All covenants and agreements contained herein shall be binding upon and inure to the benefit of the Trustee, the Manager, the Beneficial Owner, the Property Trust, and their successors and assigns, all as herein provided. Any request, notice, direction, consent, waiver or other writing or action by any such Person shall bind its successors and assigns.

Section 10.3 Usage of Terms. With respect to all terms in this Property Trust Agreement, the singular includes the plural and the plural includes the singular; words importing any gender include the other gender; references to "writing" include printing, typing, lithography and other means of reproducing words in a visible form; references to agreements and other contractual instruments include all subsequent amendments thereto or changes therein entered into in accordance with their respective terms and not prohibited by this Property Trust Agreement; references to Persons include their successors and permitted assigns; and the term "including" means including without limitation.

Section 10.4 Headings. The headings of the various Articles and Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

Section 10.5 Amendments. To the fullest extent permitted by applicable law, this Property Trust Agreement may not be supplemented or amended, and no term or provision hereof may be waived, discharged, or terminated orally, but only by a signed writing.

Section 10.6 Notices. All notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof shall be in writing, and given by (i) overnight courier, or (ii) hand delivery and shall be deemed to have been duly given when received. Notices shall be provided to the parties at the addresses specified below:

If to the Property Trust:

ARC WBPBFL0001 DST
c/o American Realty Capital Advisors, LLC

405 Park Avenue, 15th Floor
New York, New York 10022
Attn: William M. Kahane

If to the Trustee:

CSC Trust Company of Delaware
2711 Centerville Road
Suite 400
Wilmington, DE 19808
Attn: Corporate Trust Services
Tel: 866-291-6119
Fax: 302-636-8666

with a copy to:

Stevens & Lee P.C.
1105 North Market Street
7th Floor
Wilmington, DE 19801
Attn: Robert L. Symonds, Jr., Esquire

If to the Manager, to:

American Realty Capital Advisors, LLC
405 Park Avenue, 15th Floor
New York, New York 10022
Attn: Jesse C. Galloway, Esq.

If to a Beneficial Owner, at such Person's address as specified in the most recent Ownership Records.

From time to time, the Trustee or Manager may designate a new address for purposes of notice hereunder by notice to the others, and the Beneficial Owner may designate a new address for purposes of notice hereunder by notice to the Manager.

Section 10.7 Governing Law. This Property Trust Agreement shall be governed by and construed and enforced in accordance with the laws of the state of Delaware (without regard to conflict of law principles). The laws of the state of Delaware pertaining to trusts (other than the Statutory Trust Act) shall not apply to this Property Trust Agreement.

Section 10.8 Counterparts. This Property Trust Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 10.9 Severability. Any provision of this Property Trust Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction only, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, each of the parties hereby waives any provision of applicable law that renders any such provision prohibited or unenforceable in any respect.

Section 10.10 Binding Arbitration. Any arbitration provided under Section 5.7 of this Agreement shall be settled by binding arbitration held in New York, New York in accordance with the then existing rules of the American Arbitration Association (or any successor organization thereof). The arbitration panel shall consist of one member which shall be a person agreed to by the Manager and the Trustee. The Manager and the Trustee will have thirty (30) days from the date the Trustee delivers the Cause Notice described in Section 5.7 to agree on an arbitrator. If the parties are unable to agree upon an arbitrator within such thirty (30) day period, then the panel shall consist of one arbitrator selected in accordance with the then existing rules of the American Arbitration Association, provided, however, that any such arbitrator shall be an individual experienced in the area of real estate and who shall be knowledgeable with respect to the subject matter of the dispute. The costs of the arbitration shall be borne by the Property Trust. BY EXECUTING THIS AGREEMENT EACH PARTY HERETO IS AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS ARBITRATION OF DISPUTES PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED UNDER APPLICABLE LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL WITH RESPECT TO ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS ARBITRATION OF DISPUTES PROVISION. BY EXECUTING THIS AGREEMENT EACH PARTY HERETO IS GIVING UP ITS OR HIS/HER JUDICIAL RIGHTS TO DISCOVERY AND APPEAL WITH RESPECT TO ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS ARBITRATION OF DISPUTES PROVISION. IF ANY PARTY REFUSES TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, SUCH PARTY MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE NEW YORK CODE OF CIVIL PROCEDURE. EACH PARTY'S AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURE PAGE FOLLOWS]

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, each of the parties has caused this Property Trust Agreement to be duly executed as of the day and year first above written.

AMERICAN REALTY CAPITAL ADVISORS,
LLC

By: _____
Name: _____
Title: _____

CSC TRUST COMPANY OF DELAWARE

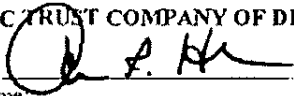
By:  _____
Name: _____
Title: Alan R. Halpern
Vice President

EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE

289 South Pompano Parkway
Pompano Beach, Florida

All of Tract B of PALM-AIRE MARKETPLACE, according to the plat thereof, as recorded in Plat Book 164, Page 35, of the Public Records of Broward County, Florida.

EXHIBIT B

THIS BENEFICIAL OWNERSHIP CERTIFICATE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR WITH ANY SECURITIES REGULATORY AUTHORITY IN ANY JURISDICTION. THIS BENEFICIAL OWNERSHIP CERTIFICATE MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF UNLESS REGISTERED, OTHER THAN PURSUANT TO AN EXEMPTION FROM OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND APPLICABLE SECURITIES LAWS. TRANSFER OF A BENEFICIAL INTEREST IN THE TRUST, OR OF ANY RIGHT, TITLE OR INTEREST THEREIN, SHALL OCCUR IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE PROPERTY TRUST AGREEMENT AND ONLY UPON AND BY VIRTUE OF THE ENTRY OF SUCH TRANSFER IN THE OWNERSHIP RECORDS OF THE PROPERTY TRUST. THIS BENEFICIAL OWNERSHIP CERTIFICATE IS NON-TRANSFERABLE AND MAY NOT BE NEGOTIATED, ENDORSED OR OTHERWISE TRANSFERRED TO A HOLDER.

ARC WBPBFL0001 DST

BENEFICIAL OWNERSHIP CERTIFICATE

No. 1

ARC WBPBFL0001 DST, a statutory trust organized under the laws of the State of Delaware (the "Issuer"), certifies that American Realty Capital DST, II is the owner of the Beneficial Interest equal to 100% of the interest in the Issuer, issued pursuant to the Property Trust Agreement dated as of September 10, 2009 (as the same may be amended or supplemented from time to time, the "Property Trust Agreement") by and between American Realty Capital Advisors, LLC, as the Manager, and CSC Trust Company of Delaware, as the Trustee.

All capitalized terms used in this Beneficial Ownership Certificate and not defined herein shall have the meanings assigned to such terms in the Property Trust Agreement. Reference is made to the Property Trust Agreement and any agreements supplemental thereto for a statement of the respective rights and obligations thereunder of the Manager, the Trustee, and the Beneficial Owner. This Beneficial Ownership Certificate is subject to all terms of the Property Trust Agreement.

By accepting this Beneficial Ownership Certificate, the holder hereof acknowledges that it waives any right under the Statutory Trust Act to seek a judicial dissolution of the Property Trust, to terminate the Property Trust, or, to the fullest extent permitted by law, (i) partition the Trust Estate, (ii) file a petition in bankruptcy on behalf of the Property Trust or (iii) take any action that consents to, aids, supports, solicits or otherwise cooperates in the filing of an involuntary bankruptcy proceeding involving the Property Trust.

This Beneficial Ownership Certificate shall in all respects be governed by, and construed in accordance with, the laws of the State of Delaware (without regard to conflict of law principles). The laws of the state of Delaware pertaining to trusts (other than the Statutory Trust Act) shall not apply to this Beneficial Ownership Certificate.

IN WITNESS WHEREOF, the Issuer has caused this Beneficial Ownership Certificate to be signed manually by the Manager in accordance with the terms of the Property Trust Agreement.

Date: _____

American Realty Capital Advisors, LLC, not in its individual capacity, but solely as Manager of the Issuer

By: _____

Name: _____

Title: _____

EXHIBIT C
OWNERSHIP RECORDS
FOR
ARC WBPBFL0001 DST
LAST REVISED _____, 20__.

<u>Name:</u>	<u>Mailing Address:</u>	<u>Percentage (%)</u> <u>Beneficial Interest</u>
American Realty Capital DST, II	American Realty Capital DST, II, c/o American Realty Capital Advisors, LLC, 405 Park Avenue, 15 th Floor, New York, New York 10022	100%

I hereby certify that the foregoing Ownership Records are complete and accurate as of the date set forth above.

American Realty Capital Advisors, LLC, not
in its individual capacity, but solely as
Manager

By: _____
Name: _____
Title: _____

EXHIBIT D
FORM OF LIMITED LIABILITY COMPANY AGREEMENT

**LIMITED LIABILITY COMPANY AGREEMENT
OF
_____, LLC**

THIS LIMITED LIABILITY COMPANY AGREEMENT (this "**Agreement**") of _____, LLC, a Delaware limited liability company (the "**Company**"), is made and entered into as of _____ (the "**Effective Date**"), by and among _____, DST, a Delaware statutory trust (the "**Property Trust**"), American Realty Capital Advisors, LLC, as the Manager, _____ ("**Springing Member 1**") and _____ ("**Springing Member 2**"), as the Springing Members (as defined in Section 9.1 below), and the parties listed on Exhibit A attached hereto, as the Members, pursuant to the Act on the following terms and conditions.

RECITALS:

WHEREAS, pursuant to the trust agreement of the Property Trust (the "**Property Trust Agreement**"), American Realty Capital DST, II (the "**Master Trust**") owns all of the beneficial interests in the Property Trust;

WHEREAS, pursuant to the trust agreement of the Master Trust (the "**Master Trust Agreement**"), ARC DSTMBR002, LLC owns 51% of the Master Trust Beneficial Interests, and the parties listed on Exhibit A attached hereto (collectively, the "**Beneficial Owners**") own the remaining 49% of the Master Trust Beneficial Interests;

WHEREAS, the Property Trust owns the real estate more particularly described in Exhibit B, together with all buildings, structures, fixtures and improvements located thereon (collectively, the "**Real Estate**");

WHEREAS, the Manager is the manager of the Master Trust and the Property Trust;

WHEREAS, the Manager has determined that a Transfer Distribution (as defined below) and a transfer of the Real Estate to the Company pursuant to Section 9.2 of the Master Trust Agreement and Section 9.2 of the Property Trust Agreement is necessary in order to preserve and protect the Real Estate;

WHEREAS, the Manager established the Company to hold the Real Estate and issued the Units to the Property Trust, as the Initial Member, in exchange for the Property Trust's contribution of the Real Estate to the Company;

WHEREAS, upon dissolution of the Property Trust (which will occur immediately after the transfer of the Real Estate to the Company in exchange for Units), the Property Trust, as the Initial Member, will distribute all of the Units held by it to the Master Trust, and, immediately

following the admission of the Beneficial Owners as members of the Company, the Property Trust's interest as the Initial Member in the Company will be terminated;

WHEREAS, immediately after the distribution by the Property Trust to the Master Trust of all of the Units held by the Property Trust, (i) the Master Trust will distribute one (1) Unit to the Manager and the remaining Units to the Beneficial Owners (in accordance with the Beneficial Owners' Master Trust Beneficial Interests as reflected on Exhibit A attached hereto), (ii) the Manager will admit the Beneficial Owners as Members into the Company and (iii) the Master Trust will be terminated.

NOW THEREFORE, the parties agree that the Company shall be governed by and operated pursuant to the Act and the terms of this Agreement as hereinafter set forth.

ARTICLE I

Formation of Company

1.1 Authority. The Company has been formed in accordance with the requirements of the Delaware Limited Liability Company Act (the "Act") and _____ has been designated the manager of the Company (the "**Manager**"). The Manager shall have the authority to perform such other filings, recordings and actions and will comply with all formation requirements under the Act and the laws of such other states in which the Company elects to do business.

1.2 Membership, Rights and Obligations. Upon the consummation of the transactions described in the Recitals, the Beneficial Owners will be members of the Company. The rights and obligations of the Company and the Members will, except as otherwise provided herein, be governed by the Act.

1.3 Name. The name of the Company is "_____, LLC" and its affairs will be conducted under the Company name or such other name(s) as the Manager may select. The Manager will execute and file with the proper offices any and all certificates required by the fictitious name or assumed name statutes of the states in which the Company elects to do business. The Company will have the exclusive ownership of and right to use the Company name.

1.4 Purposes of the Company. The purposes of the Company are:

(a) to own, hold, sell, assign, transfer, and otherwise deal with the Real Estate;

(b) to exercise all powers enumerated in the Act if necessary or convenient to the conduct, promotion or attainment of the business or purposes otherwise set forth herein; and

(c) notwithstanding anything to the contrary set forth in paragraphs 1.4(a) and 1.4(b) above, since its formation and thereafter until the Loan is paid in full, the Company will continue to (x) be organized solely for the purpose of owning the Real Estate, (y) not engage in any business unrelated to the ownership of the Real Estate, and (z) not have any assets other than those related to the Real Estate.

1.5 Characterization. It is the intention of the Manager and the Members that the Company constitute a partnership for federal, state and local income tax purposes. Each Member will report its Membership Interest in a manner consistent with the foregoing, and neither the Manager nor any Member will take any action inconsistent with the foregoing.

1.6 Principal Office of the Company. The principal office of the Company is _____, or at such other place as the Manager may designate. The Company may have other offices in such place or places as selected by the Manager.

1.7 Registered Office and Registered Agent. The registered agent of the Company in the State of Delaware is _____, and the registered office of the Company in the State of Delaware is _____. The Manager may from time to time in accordance with the Act change any of the Company's registered agents and/or registered offices and designate a registered agent and registered office in each state the Company is required to maintain or appoint one.

1.8 Term of Existence of the Company. The term of the Company commenced upon the filing of its Certificate of Formation with the Secretary of State of the State of Delaware and will be perpetual unless sooner terminated as provided in Article VIII.

ARTICLE II

Membership Interests; Capital Contributions

2.1 Initial Member. The Property Trust, as the Initial Member, shall contribute the Real Estate to the Company in exchange for all of the authorized Units in the Company. The Property Trust shall then dissolve and distribute the Units to the Master Trust in exchange for, and in termination of, the Master Trust's beneficial interests in the Property Trust. The Master Trust shall then distribute the Units to the Beneficial Owners in proportion to their Master Trust Beneficial Interests, and the Master Trust shall terminate thereafter.

2.2 Membership Interest. Each Member's percentage ownership interest in the Company shall be proportionate to such Member's Master Trust Beneficial Interest immediately prior to the transactions described in the Recitals. The amount of each Member's percentage ownership interest in the Company ("Membership Interest") is set forth opposite such Member's name on Exhibit A hereto.

2.3 Capital Contributions. The Manager may request at any time that the Members make additional Capital Contributions to the Company on a pro rata basis in proportion to each Member's Membership Interest. The Members are not required to comply with any such request. The Manager shall adjust the Members' Capital Contributions and Membership

Interests set forth on Exhibit A hereto to equitably reflect any additional capital contributions made by Members. The Manager shall contribute \$100 for one (1) Unit in the Company.

ARTICLE III

Accounting, Allocations and Distributions

3.1 Books of Account.

(a) The Manager shall maintain the books of account of the Company.

(b) The books of account will be closed promptly after the end of each calendar year, which will be the Company's fiscal year (the "**Fiscal Year**"). Promptly after the close of the Fiscal Year, the Company will cause to be prepared such partnership income tax and other returns required under applicable law and regulation, including any and all statements necessary to advise all Members promptly about their investment in the Company for U.S. federal income tax reporting purposes. The Manager will be responsible for the prompt filing and delivery of all such returns and statements. All elections and options available to the Company for tax purposes will be taken or rejected by the Company in the sole discretion of the Manager.

3.2 Capital Accounts. A separate capital account ("**Capital Account**") will be maintained for each Member. Each Member's initial Capital Account shall be equal to the amount set forth opposite such Member's name on Exhibit A hereto. Thereafter, each Member's Capital Account will, *inter alia*, be increased by (i) the amount of money contributed by such Member to the Company, (ii) the fair market value of property contributed by such Member to the Company (net of liabilities secured by such contributed property that the Company is considered to assume or take subject to under Code Section 752) and (iii) allocations to such Member of Company income and gain (or items thereof), including income and gain exempt from tax; and decreased by (iv) the amount of money distributed to such Member (as a Member) by the Company, (v) the fair market value of property distributed to such Member (as a Member) by the Company (net of liabilities secured by such distributed property that such Member is considered to assume or take subject to under Code Section 752), (vi) allocations to such Member of expenditures of the Company described in Code Section 705(a)(2)(B) and (vii) allocations to such Member of Company loss and deduction (or items thereof).

3.3 Profit and Loss Allocations. Except as otherwise required by Code Section 704 and the Treasury Regulations thereunder, net profit or net loss of the Company, determined for income tax purposes, will be allocated to the Members pro rata with their Membership Interests.

3.4 Special Tax Allocations. In accordance with Code Sections 704(b) and 704(c) and the Treasury Regulations thereunder, income, gain, loss and deduction with respect to any asset contributed to the capital of the Company will, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its fair market value at the time of contribution to the Company.

3.5 Distributions.

(a) Company "Cash Flow" for any Fiscal Year will consist of all cash received by the Company (other than as a capital contribution) less cash expenditures for Company debts, expenses, capital expenditures and reasonable reserves as determined by the Manager in its sole discretion. Company Cash Flow for any Fiscal Year will be distributed to the Members in proportion to their Membership Interests.

(b) No Member has the right to partition, or otherwise demand an in-kind distribution of, the Company Property. If the Company distributes Company Property to the Members, the fair market value of such property at the time of such distribution will be determined by the Manager in its sole discretion, and any such distribution will be made to the Members in proportion to their Membership Interests.

(c) No distribution shall be made to any Members if such distribution would violate applicable law or constitute a default under the Financing Documents.

ARTICLE IV

Rights, Duties, Liabilities and Restrictions of the Manager

4.1 The Manager.

(a) Except solely as provided in Section 4.1(b) with respect to Major Decisions (as defined therein), the Manager will have the sole and exclusive right to manage, control and conduct the affairs of the Company and to manage the Company Property.

(b) Notwithstanding the foregoing, after all obligations evidenced or secured by the Financing Documents have been discharged in full and no obligations thereunder remain outstanding, the following actions (the "Major Decisions") will require the consent of Members holding a majority of the Membership Interests: (i) entering into any agreement for the sale, transfer, or exchange of all or any substantial portion of the Company Property; (ii) entering into, modifying, extending, renewing or canceling any agreement pertaining to any indebtedness to be secured in whole or in part by any mortgage, deed of trust, pledge, lien or other encumbrance upon the Real Estate (other than the assumption by the Company of the Loan and the obligations of DST under the Financing Documents and the execution of documents required to evidence such assumptions, consent to which is deemed to have been given); (iii) admitting new Members to the Company in exchange for Capital Contributions by such Persons to the Company; (iv) dissolving and winding up the Company; or (v) amending this Agreement (whether in connection with a merger or otherwise). The consent of the Members to any Major Decision shall be determined as provided in Section 5.1(b).

4.2 Limitation on Authority; Separateness.

(a) Notwithstanding any other provision of this Agreement or any provision of law that otherwise so empowers the Company, the Manager or the Members, so long as any obligation evidenced or secured by any of the Financing Documents remains outstanding and not discharged in full, neither the Manager, the Members nor any other Person on behalf of the

Company shall have any authority to do any of the following without (1) the Lender's prior written consent and (2) after any secondary market transaction and if requested by the Lender, confirmation from each of the rating agencies that such action will not result in the qualification, withdrawal or downgrade of any securities rating assigned in connection with such transaction:

- (i) perform any act in contravention of or constituting an event of default under the Financing Documents;

- (ii) engage in any business or activity other than those set forth in Article I;

- (iii) borrow money or incur indebtedness other than normal trade accounts payable and lease obligations in the normal course of business (subject to the limitations contained in the Financing Documents) or grant consensual liens on the Company's property other than in connection with the Loan;

- (iv) to the fullest extent permitted by law, dissolve, wind-up or liquidate under Section 18-801 of the Act;

- (v) sell, distribute in partition, lease, or otherwise dispose of, all or substantially all of its assets except simultaneously with a permitted repayment of the Loan;

- (vi) enter into any transaction with an Affiliate unless such transaction is concluded on an arm's-length basis and on commercially reasonable terms;

- (vii) amend, modify or alter the Special Purpose Provisions of this Agreement;

- (viii) merge, combine or consolidate with any other entity; or

- (ix) to the extent prohibited by the Financing Documents, issue or distribute (in liquidation or otherwise) tenancy in common interests or other partial interests in the Real Estate to the Members or to any other Person.

(b) Notwithstanding any other provision of this Agreement, so long as any obligation evidenced or secured by any of the Financing Documents remains outstanding and not discharged in full, the Company shall (and the Manager and the Members shall cause the Company at all times to):

- (i) not own any asset or property other than (i) the Real Estate and (ii) incidental personal property necessary for the ownership or operation of the Real Estate;

- (ii) not incur any debt, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than the Loan and trade debt incurred in the ordinary course of the Company's business;

(iii) not engage directly or indirectly in any business other than those necessary for the ownership, management or operation of the Real Estate and any business transactions with any member, partner, owner of 50% or more of the outstanding membership interests in the Company ("Majority Owner") or affiliate of the Company or any affiliate of any member, partner or Majority Owner of the Company shall be entered into upon the terms and conditions that are intrinsically fair and substantially similar to those that would be available on an arm's-length basis with third parties other than an affiliate of the Company or any member, partner, Majority Owner or an affiliate of any member, partner or Majority Owner of the Company;

(iv) not make any loans or advances to any third party (including any affiliate of the Company or any member, partner or Majority Owner or principal or an affiliate of any member, partner, Majority Owner or principal of the Company) and shall not acquire obligations or securities of its affiliates;

(v) be solvent and pay its liabilities from its assets including salaries of any employees as the same shall become due; provided, however, the poor performance of the Real Estate shall not give rise to any personal liability on the part of any guarantor liable for the payment of the Loan;

(vi) do all things necessary to observe organizational formalities and preserve its existence, not amend, modify or otherwise change the governing documents of the Company and not change its name, identity, the state under which the Company is registered and/or organized or the Company's principal place of business (if different than the state of organization) without the prior written consent of the Lender;

(vii) conduct and operate its business as presently conducted and operated;

(viii) maintain books and records, financial statements and bank accounts separate from those of its affiliates, including its members, general partners or Majority Owners;

(ix) be, and at all times hold itself out to the public as, a legal entity separate and distinct from any other entity (including any affiliate thereof, including any member, general partner or Majority Owner or any affiliate of any member, general partner or Majority Owner of the Company) and correct any known misunderstanding regarding its status as a separate entity, conduct and operate its business in its own name, not identify itself or any of its affiliates as a division or part of the other and maintain and utilize a separate telephone number and separate stationery, invoices and checks;

(x) establish and maintain an office through which its business shall be conducted separate and apart from those of any of its affiliates;

(xi) file its own tax returns;

(xii) maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(xiii) not seek or consent to the dissolution or winding up in whole or in part of the Company nor permit the Manager to consent to the dissolution or liquidation in whole or in part of the Company. In the event of any dissolution of the Company, the Company shall not liquidate its interest in the Real Estate without the prior written consent of Lender;

(xiv) not commingle the funds and other assets of the Company with those of any member or Majority Owner of the Company, any affiliate of a member or Majority Owner of the Company or any other person;

(xv) maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual asset or assets, as the case may be, from those of any affiliate or constituent party, or any affiliate, member, Majority Owner, or any other person; and

(xvi) not pledge its assets and not hold itself out to be responsible for the debts or obligations of any other person;

(c) Failure of the Company, or the Members or the Manager on behalf of the Company, to comply with any of the foregoing covenants or any other covenants contained in this Agreement shall not affect the status of the Company as a separate legal entity or the limited liability of the Members or the Manager.

(d) Notwithstanding any other provision of this Agreement and any provision of law that otherwise so empowers the Company, the Members or the Manager, so long as any obligation evidenced or secured by the Financing Documents remains outstanding, neither the Members nor the Manager nor any other Person shall be authorized or empowered, nor shall they permit the Company, to the fullest extent permitted by law, to take any action that might cause the Company to become insolvent, or to file a voluntary petition or otherwise initiate proceedings to be adjudicated bankrupt or insolvent, or to consent to the institution of bankruptcy or insolvency proceedings against the Company, or to file a petition seeking or consenting to reorganization or relief of the Company as debtor under any applicable federal or state law relating to bankruptcy, insolvency, or other relief for debtors with respect to the Company; or to seek or consent to the appointment of any trustee, receiver, conservator, assignee, sequestrator, custodian, liquidator (or other similar official) of the Company or of all or any substantial part of the properties and assets of the Company, or to make any general assignment for the benefit of creditors of the Company, or to admit in writing the inability of the Company to pay its debts generally as they become due or to declare or effect a moratorium on the Company debt or to take any action in furtherance of any such action.

4.3 Duties and Responsibilities of the Manager. The Manager will diligently, faithfully and competently perform its duties and responsibilities, and will devote such time to

the Company's business as, in the judgment of the Manager, is reasonably required. No fee shall be payable to the Manager for management of the affairs of the Company.

4.4 Officers of the Company. The Manager may appoint one or more persons to serve as officers of the Company, in such capacities and with such delegated rights and powers as the Manager may approve; provided, however, that no such officer will have any different or greater rights and powers than the Manager. The Manager may provide that compensation be paid to persons who provide services to the Company as officers.

4.5 Expenditures by Manager. The Company will reimburse the Manager and its Affiliates for any costs and expenses reasonably incurred by them on behalf of the Company.

4.6 Potential Conflicts. The Company may purchase goods or services from the Manager or its Affiliates, provided that any such transaction will be conducted on commercially reasonable terms. The Manager may engage in business ventures of any nature and description independently or with others, including, but not limited to, the business or businesses engaged in by the Company, and neither the Company nor any of the other Members will have any rights in or to such independent ventures or the profits derived therefrom.

4.7 Liability of Manager. The Manager will not be liable to any Member or the Company for honest mistakes of judgment, or for action or inaction, taken reasonably and in good faith for a purpose that was reasonably believed to be in the best interests of the Company, or for losses due to such mistakes, action or inaction, or for the negligence, dishonesty or bad faith of any employee, broker or other agent of the Company. The Manager may consult with counsel and accountants in respect of Company affairs and be fully protected and justified in any action or inaction that is taken in accordance with the advice or opinion of such counsel or accountants, provided that they will have been selected with reasonable care. The Members will look solely to the Company Property for the return of their capital and, if the assets of the Company remaining after payment or discharge of the debts and liabilities of the Company are insufficient to return such capital, they will have no recourse against the Manager for such purpose. The provisions of this Section will not relieve the Manager of any liability, notwithstanding any of the foregoing to the contrary, by reason of the gross negligence, willful misconduct or intentional wrongdoing or to the extent (but only to the extent) that such liability may not be waived, modified or limited under applicable law, but will be construed so as to effectuate the provisions of this Section to the fullest extent permitted by law.

4.8 Indemnification. The Company shall indemnify the Manager, in its individual capacity, from and against any and all liabilities, obligations, losses, damages, taxes, claims, actions, suits, costs, expenses and disbursements including reasonable legal fees and expenses which may be imposed on, incurred by or asserted at any time against it, in its individual capacity, and not indemnified against by any other Persons, which relate to or arise out of the Company Property or the Financing Documents. The indemnities contained in this Section 4.9 shall survive the termination of this Agreement. So long as any obligation evidenced or secured by the Financing Documents is outstanding, no indemnity payment from funds of the Company (as distinct from funds from other sources, such as insurance) of any indemnity pursuant to this Section 4.9 shall be payable from amounts allocable to the Lender pursuant to the Financing Documents. Any indemnification set forth herein shall be fully subordinate to the Loan and shall

not constitute a claim against the Company in the event its cash flow is insufficient to pay its obligations.

4.9 Successor to Manager. If the Manager resigns, a successor manager will be selected by Members holding a majority of the Membership Interests.

4.10 Tax Matters Member. The Manager will be the Company's Tax Matters Partner as defined in Code Section 6231(a)(7) (the "TMP"). The TMP will have the right to resign as such by giving 30 days written notice to the Members. Upon the resignation of the TMP, a successor TMP will be selected by the Manager. The TMP will employ experienced tax counsel to represent the Company in connection with any audit or investigation of the Company by the Internal Revenue Service (the "Service") and in connection with all subsequent administrative and judicial proceedings arising out of such audit. The Company will not be obligated to pay any compensation to the TMP in his capacity as such; provided, however, that all reasonable expenses incurred by the TMP in serving as the TMP will be Company expenses and the TMP will be reimbursed by the Company in accordance with Section 4.6 above. The TMP will keep the Members informed of all administrative and judicial proceedings, as required by Code Section 6223(g), and will furnish to each Member who so requests in writing a copy of each notice or other communication received by the TMP from the Service, except such notices or communications as are sent directly to such Member by the Service.

ARTICLE V

Members

5.1 Powers of the Members.

(a) Except as provided in Section 5.1(c), the Members have the right to propose that the Company and/or the Manager take certain actions with respect to the Company's business or the Company Property, including, but not limited to, Major Decisions in accordance with the procedure described in Section 5.1(b).

(b) Whenever an action is proposed by any Member pursuant to Section 5.1(a), or by the Manager with respect to any Major Decision, the Manager shall first send to all Members written notice (the "Proposed Action Notice") setting forth the particulars of the proposed action (the "Proposed Action"). The Proposed Action Notice shall include a ballot on which the Member may mark its vote for or against the Proposed Action. Consistent with the provisions of Section 9.2, the Members shall respond to the Proposed Action Notice by returning the marked ballot to the Manager within fourteen (14) days of the receipt of the Proposed Action Notice. A Member not returning the ballot within the prescribed period shall be deemed to have voted for the Proposed Action. The Manager shall promptly notify all Members of the results of the vote. Subject to Section 4.3, the Manager shall be authorized to take action with respect to such Proposed Action if such Proposed Action has been approved by Members holding a majority of the Membership Interests.

(c) Notwithstanding anything to the contrary in this Agreement other than Section 5.4, so long as any obligation evidenced or secured by any of the Financing Documents

remains outstanding and not discharged in full, the Members will have no right to vote on any matters relating to the Company or its assets.

5.2 Liability. No Member will be personally liable for any of the debts of the Company or any of the losses thereof beyond the amount of such Member's Capital Contribution to the Company.

5.3 Meetings of the Members. A meeting of the Members may be called at any time by the Manager or by Members holding more than 25 percent of the Membership Interests. The meetings will be held at the Company's principal place of business or any other place designated by the Manager. The Manager will give the Members at least ten days prior written notice stating the time, place and purpose of the meeting. At a meeting of the Members, the presence of Members holding more than 50 percent of the Membership Interests, in person or by proxy, will constitute a quorum. A Member may vote either in person or by written proxy signed by the Member or by his, her or its duly authorized attorney in fact. Persons present by telephone will be deemed to be present "in person" for purposes hereof.

5.4 Removal of Manager. Notwithstanding any other provision of this Agreement, a Manager can be removed and its successor chosen by Members holding at least 75 percent of the Membership Interests, *provided, however*, that so long as any obligation evidenced or secured by the Financing Documents remains outstanding and not discharged in full, consent of the Lender shall also be required for removal of a Manager and appointment of a successor Manager.

5.5 Springing Members.

(a) Upon the occurrence of any event that causes the last remaining Member to cease to be a member of the Company (other than upon an assignment by the Member of all of its limited liability company interest in the Company and the admission of the transferee pursuant to Article VI) (a "**Member Cessation Event**"), Springing Member 1 shall, without any action of any Person and simultaneously with the Member Cessation Event, automatically be admitted to the Company as a Special Member and shall continue the Company without dissolution. If, however, at the time of a Member Cessation Event, Springing Member 1 has died or is otherwise no longer able to step into the role of Special Member, then in such event, Springing Member 2 shall, concurrently with the Member Cessation Event, and without any action of any Person and simultaneously with the Member Cessation Event, automatically be admitted to the Company as Special Member and shall continue the Company without dissolution. It is the intent of these provisions that the Company never have more than one Special Member at any particular point in time. No Special Member may resign from the Company or transfer its rights as Special Member unless a successor Special Member has been admitted to the Company as Special Member by executing a counterpart to this Agreement. The Special Member shall automatically cease to be a member of the Company upon the admission to the Company of a substitute Member. The Special Member shall be a member of the Company that has no interest in the profits, losses and capital of the Company and has no right to receive any distributions of Company Property. Pursuant to Section 18-301 of the Act, a Special Member shall not be required to make any capital contributions to the Company and shall not receive a limited liability company interest in the Company. A Special Member, in its capacity as Special Member, may not bind the Company. Except as required by any mandatory provision

of the Act, a Special Member, in its capacity as Special Member, shall have no right to vote on, approve or otherwise consent to any action by, or matter relating to, the Company, including, without limitation, the merger, consolidation or conversion of the Company. In order to implement the admission to the Company of the Special Member, each of Springing Member 1 and Springing Member 2 shall execute a counterpart to this Agreement. Prior to its admission to the Company as Special Member, each person acting as a Springing Member 1 or Springing Member 2 shall not be a member of the Company.

(b) The Company shall at all times have a Springing Member 1 and a Springing Member 2. No resignation or removal of a Springing Member, and no appointment of a successor Springing Member, shall be effective unless and until such successor shall have executed a counterpart to this Agreement. In the event of a vacancy in the position of Springing Member 1 or Springing Member 2, the Manager shall, as soon as practicable, appoint a successor Springing Member to fill such vacancy. By signing this Agreement, a Springing Member agrees that, should such Springing Member become a Special Member, such Springing Member will be subject to and bound by the provisions of this Agreement applicable to a Special Member.

ARTICLE VI

Assignment Provisions

6.1 Transfers by Members.

(a) Subject to Section 6.2, a Member may Transfer some or all of its Membership Interests in the Company. For purposes hereof, "Transfer" means, when used as a noun, any sale, hypothecation, pledge, assignment, gift, or other transfer, be it voluntary or involuntary, to any person, inter vivo, testamentary, by operation of laws of devise and descent or other laws, and, when used as a verb, to sell, hypothecate, pledge, assign, gift, or otherwise transfer to any person, be it voluntarily or involuntarily, inter vivo, testamentary, by operation of the laws of devise or descent or any other laws.

(b) Notwithstanding anything contained herein to the contrary, no Transfer of any Membership Interest will be permitted if such Transfer would: (i) be in contravention of or constitute an event of default under the Financing Documents; (ii) result in a termination of the Company for federal income tax purposes that would have a material adverse effect on the Company or any of the Members; (iii) result in the Company not qualifying for an exemption from the registration requirements of any applicable federal or state securities laws; (iv) result in any violation of any applicable federal or state securities laws; (v) result in the Company having to register as an investment company under the Investment Company Act of 1940, as amended; or (vi) require the Company, the Manager or any Affiliate to register as an investment advisor under the Investment Advisers Act of 1940, as amended.

6.2 General Provisions. The following rules will apply to the Transfer of interests in the Company:

(a) no person will be admitted as an assignee or transferee hereunder unless and until: (i) the assignment is made in writing, signed by the assignor and accepted in writing by

the assignee, and a duplicate original of the assignment is delivered to and accepted by the Manager; (ii) the prospective assignee executes and delivers to the Company a written agreement, in form and substance satisfactory to the Manager, pursuant to which said person agrees to be bound by this Agreement; and (iii) an appropriate amendment hereto is executed and, if required, filed of record;

(b) the effective date of such assignment or admission will be no earlier than the date that the documents specified in subsection (a) above are delivered to and accepted by the Manager;

(c) the Company and the Manager will treat the assignor of the assigned interest as the absolute owner thereof and will incur no liability for distributions made in good faith to such assignor prior to such time as the documents specified in subsection (a) above have been delivered to and accepted by the Manager;

(d) unless admitted as a Member to the Company by the Manager pursuant to the provisions of Article VII, the assignee or transferee of an interest in the Company hereunder will not be entitled to become or exercise any rights of a Member, but will, to the extent of the interest acquired, be entitled only to the predecessor Member's Membership Interest in the Company. No person, including the legal representatives, heirs or legatees of a deceased Member, will have any rights or obligations greater than those set forth herein and no person will acquire an interest in the Company or become a Member except as permitted hereby;

(e) the costs incurred by the Company in processing an assignment (including attorney's fees) will be borne by the assignee, and will be payable prior to and as a condition of admission to the Company; and

(f) upon the Transfer of a Membership Interest which satisfies Section 6.2, Exhibit A to this Agreement will be revised to reflect such Transfer.

ARTICLE VII

Admission of Additional Members; Resignations and Withdrawals

7.1 Admission of Additional Members.

(a) Subject to compliance with applicable securities laws, the Financing Documents and this Agreement, the Manager, in its sole discretion, may admit new Members in exchange for Capital Contributions by such persons to the Company. The Members hereby grant the Manager the power of attorney to amend the Company's Certificate of Formation, if needed, and this Agreement to effect any issuance of Membership Interests pursuant this subsection. Upon the admission of any new Members to the Company, the Manager shall adjust the Members' Membership Interests set forth on Exhibit A hereto to equitably reflect the Capital Contributions made by new Members.

(b) Additional Members admitted pursuant to Section 7.1(a) will be entitled to all of the rights and privileges of the original Members hereunder and will be subject to all of the

obligations and restrictions hereunder, and in all other respects their admission will be subject to all of the terms and provisions hereof.

(c) No Member shall have any preemptive or similar rights to increase or maintain such Member's Membership Interest in the Company.

7.2 Resignations and Withdrawals. A Member may not resign as a member of the Company except in connection with a Transfer of all of its Membership Interest in accordance with Article V. A Member who resigns from the Company in violation of this Section 7.2 will forfeit all Membership Interests and rights as a Member, including his right to receive any distributions from the Company and the right to vote. Upon the resignation of a Member, the Company will not have any obligation to purchase such Member's Membership Interests or any part thereof. The Manager shall adjust the Members' Membership Interests set forth on Exhibit A hereto to equitably reflect such resignation of a Member.

ARTICLE VIII

Termination and Winding Up

8.1 Termination.

- (a) The Company will terminate upon the earliest to occur of the following:
 - (i) The Manager and Members holding a majority of the Membership Interests vote to terminate the Company or convert it into a different legal entity pursuant to Delaware law; or
 - (ii) The sale, exchange or other disposition of the Company Property.
- (b) Notwithstanding the foregoing, or any other provision of this Agreement to the contrary, for so long as the Company's obligations under the Financing Documents remain outstanding, the Company may not be terminated without the prior written consent of the Lender.
- (c) This Agreement generally and Article VIII in particular will govern the conduct of the parties during the winding up of the Company.

8.2 Liquidation Procedures. Upon dissolution of the Company, the Company's affairs will be wound up. A proper accounting will be made of the profit or loss of the Company from the date of the last previous accounting to the date of termination.

8.3 Liquidating Trustee. During the winding up of the Company, the Manager will act as the liquidating trustee or will appoint a liquidating trustee. The liquidating trustee will have full power to sell, assign and encumber the Company Property. All certificates or notices thereof required by law will be filed on behalf of the Company by the liquidating trustee. Upon completion of winding up, the liquidating trustee shall cause the Company's Certificate of Formation to be cancelled in accordance with the Act, and thereupon the existence of the Company shall cease.

8.4 Distribution on Winding Up. The proceeds of liquidation will be applied by the end of the taxable year in which the liquidation occurs or, if later, within 90 days after the date of such liquidation, in the following order:

(a) first, to the creditors of the Company, in the priority and to the extent provided by law; and

(b) thereafter, to the Members in proportion to their Membership Interests.

8.5 No Dissolutions. The bankruptcy, death, dissolution, liquidation, termination or adjudication of incompetency of a Member shall not cause the termination or dissolution of the Company and the business of the Company shall continue. Upon any such occurrence, the trustee, receiver, executor, administrator, committee, guardian or conservator of such Member (an "assignee") shall have all the rights of such Member for the purpose of settling or managing its estate or property, subject to satisfying conditions precedent to the admission of such assignee as a substitute Member. The transfer by such trustee, receiver, executor, administrator, committee, guardian or conservator of any Membership Interest shall be subject to all of the restrictions, hereunder to which such transfer would have been subject if such transfer had been made by such bankrupt, deceased, dissolved, liquidated, terminated or incompetent Member.

ARTICLE IX

General Provisions

9.1 Definitions. The following terms not otherwise defined herein will have the meanings ascribed to them below:

(a) **"Affiliate"** (whether or not such term is capitalized) shall mean, with respect to any specified Person any other Person owning beneficially, directly or indirectly, any ownership interest in such specified Person or directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," when used with respect to any specified Person, shall mean the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" shall have meanings correlative to the foregoing.

(b) **"Code"** shall mean the Internal Revenue Code of 1986, as amended from time to time.

(c) **"Company Property"** shall mean any and all property owned by the Company including, but not limited to, the Real Estate.

(d) **"Control"** (whether or not such term is capitalized) when used with respect to any specified Person, shall mean the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" shall have meanings correlative to the foregoing. Without limiting the generality of the foregoing, a Person shall be

deemed to Control any other Person in which it owns, directly or indirectly, 49% or more of the ownership interests.

(c) **"Financing Documents"** shall mean the Note, the Mortgage and any other documents or agreements contemplated by any of the foregoing or otherwise required by Lender.

(f) **"Lease"** shall mean _____, together with all amendments, supplements and modifications thereto.

(g) **"Lender"** shall mean _____, and its successors and assigns, with respect to the Loan.

(h) **"Loan"** shall mean that certain loan from Lender in a principal amount not to exceed \$ _____, as evidenced and secured by the Financing Documents.

(i) **"Master Trust Beneficial Interests"** shall mean a beneficial interest in the Master Trust, all of which interests shall be either Class 1 Beneficial Interests (as defined in the Master Trust Agreement) or the Class 2 Beneficial Interests (as defined in the Master Trust Agreement).

(j) **"Members"** shall mean the persons listed on Exhibit A attached hereto; provided, however, that the term "Member" shall not include any Special Member.

(k) **"Person"** (whether or not such term is capitalized) shall mean a natural person, corporation, limited partnership, general partnership, limited liability company, joint stock company, joint venture, association, company, trust, bank trust company, land trust, business trust, statutory trust or other organization, whether or not a legal entity, and a government or agency or political subdivision thereof.

(l) **"Property Trust Agreement"** shall mean that certain Trust Agreement of the Property Trust dated as of September 10, 2009, by and between the Manager and CSC Trust Company of Delaware, as Trustee.

(m) **"Property Trust Estate"** shall mean all of the Property Trust's right, title and interest in and to the Real Estate, the Lease and any and all other property and assets (whether tangible or intangible) in which the Property Trust at any time has any right, title or interest, all of which are or will be acquired by the Company in connection with the formation of the Company.

(n) **"Real Estate"** shall have the meaning set forth in the Recitals.

(o) **"Section"** shall mean a section in this Agreement unless the context clearly indicates otherwise.

(p) **"Special Member"** shall mean, upon such Person's admission to the Company as a member of the Company pursuant to Section 5.5(a), a person acting as either Springing Member 1 or Springing Member 2, in such person's capacity as a member of the

Company. A Special Member shall only have the rights and duties expressly set forth in this Agreement.

(q) **"Special Purpose Provisions"** shall mean Sections 1.3, 1.4, 3.5(b) (first sentence), 3.5(c), 4.2, 4.3, 4.9, 4.10 (second and third sentences), 5.1(c), 5.5, 6.1(b)(i), 8.1(b), 8.5, 9.12, 9.13 and 9.1 (to the extent terms defined in Section 9.1 are used in any of the foregoing provisions).

(r) **"Springing Member"** shall mean a Person who is not a member of the Company but who has signed this Agreement in order that, upon the conditions described in Section 5.5(a), such Person can become the Special Member without any delay in order that at all times the Company shall have at least one member.

(s) **"Transaction Documents"** shall mean the Master Trust Agreement and the Financing Documents.

(t) **"Transfer Date"** shall mean the date (i) the Property Trust Estate is contributed to the Company and (ii) the Units are distributed by the Property Trust to the Master Trust, followed by a distribution of the Units by the Master Trust to the Beneficial Owners and the termination of the Master Trust. The above steps are pursuant to Section 9.2 of the Master Trust Agreement and shall occur consecutively.

(u) **"Treasury Regulations"** shall mean U.S. Treasury Regulations promulgated under the Code.

(v) **"Master Trust Agreement"** shall mean that certain Trust Agreement dated as of September 10, 2009, by and among ARC DSTMBR002, LLC, American Realty Capital Advisors, LLC, ARC TRSMBR002, LLC, and CSC Trust Company of Delaware.

(w) **"Unit"** shall mean an interest in the Company entitling the owner of the Unit if admitted as a Member or Manager to the respective voting and other rights afforded to a Member holding a Unit, and affording to such Member's share in income, loss and distributions as provided for in this Agreement.

9.2 **Notices.** All notices, offers or other communications required or permitted to be given pursuant to this Agreement will be in writing and will be considered as properly given or made upon personal delivery or on the third business day following mailing from within the United States by first class United States mail, postage prepaid, certified mail return receipt requested, and addressed to the address of the Company set forth in Section 1.6, if to the Company, and to the address beneath a Member's name on the signature pages hereto, if to a Member. Any Member may change its address by giving fifteen (15) days advance written notice stating its new address to the Manager. Commencing with the giving of such notice, such newly designated address will be such Member's address for purposes of all notices or other communications required or permitted to be given pursuant to this Agreement.

9.3 **Third Party Reliance.** Third parties dealing with the Company shall be entitled to conclusively rely on the signature of the Manager and/or any officer of the Company to bind the Company.

9.4 Successors. This Agreement and all the terms and provisions hereof will be binding upon and will inure to the benefit of all Members and their legal representatives, heirs, successors and permitted assigns, except as expressly herein otherwise provided.

9.5 Governing Law. This Agreement will be construed in conformity with the laws of the State of Delaware, without regard to conflicts of law provisions.

9.6 Counterparts. This Agreement may be executed in counterparts, each of which will be an original, but all of which will constitute one and the same instrument.

9.7 Pronouns and Headings. As used herein, all pronouns will include the masculine, feminine, neuter, singular and plural thereof wherever the context and facts require such construction. The headings, titles and subtitles herein are inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

9.8 Members Not Agents. Nothing contained herein will be construed to constitute any Member the agent of another Member, except as specifically provided herein, or in any manner to limit the Members in the carrying on of their own respective businesses or activities.

9.9 Entire Understanding. This Agreement constitutes the entire understanding among the Members and supersedes any prior understanding and/or written or oral agreements among them with respect to the Company.

9.10 Severability. If any provision of this Agreement, or the application of such provision to any person or circumstance, will be held invalid by a court of competent jurisdiction, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it is held invalid by such court, will not be affected thereby.

9.11 Further Assurances. Each of the Members will hereafter execute and deliver such further instruments and do such further acts and things as may be required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the terms hereof. Recognizing that each Member may find it necessary from time to time to establish to third parties, such as accountants, banks, mortgagees or the like, the then current status of performance hereunder, each Member agrees, upon the written request of another Member (including the Manager, for and on behalf of the Company), from time to time, to furnish promptly a written statement of the status of any matter pertaining to this Agreement or the Company to the best of the knowledge and belief of the Member making such statements.

9.12 Benefits of Agreement. No Third-Party Rights. Except for the Lender, as applicable (1) none of the provisions of this Agreement shall be for the benefit of or enforceable by any creditor of the Company or by any creditor of any Member or a Special Member, and (2) nothing in this Agreement shall be deemed to create any right in any Person (other than the Manager with respect to indemnity under Section 4.9) not a party hereto, and this Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of any third Person, except as provided in this Section 9.12. The Lender is an intended third-party beneficiary of this Agreement and may enforce this Agreement against the Manager or the Members.

9.13 Waiver of Partition; Nature of Interest. To the fullest extent permitted by law, each of the Member, the Special Member, the Springing Members, and any additional member admitted to the Company hereby irrevocably waives any right or power that such Person might have to cause the Company or any of its assets to be partitioned, to cause the appointment of a receiver for all or any portion of the assets of the Company, to compel any sale of all or any portion of the assets of the Company pursuant to any applicable law or to file a complaint or to institute any proceeding at law or in equity to cause the dissolution, liquidation, winding up or termination of the Company. No Member shall have any interest in any specific assets of the Company, and no Member shall have the status of a creditor with respect to any distribution pursuant to Section 3.5 hereof. The interest of each Member in the Company is personal property.

[EXECUTION PAGE FOLLOWS]

**COUNTERPART SIGNATURE PAGE
LIMITED LIABILITY COMPANY AGREEMENT
OF
_____, LLC**

IN WITNESS WHEREOF, the undersigned has executed this Limited Liability Company Agreement as of the date set forth below.

PROPERTY TRUST:

By: _____
Name _____
Title: _____

Date: _____

MANAGER:

By: _____
Name _____
Title: _____

Date: _____

[SPRINGING MEMBER 1]:

By: _____
Name _____
Title: _____

Date:

[SPRINGING MEMBER 2]:

By: _____
Name _____
Title: _____

Date:

EXHIBIT A TO LLC AGREEMENT

MEMBER INFORMATION

<u>MEMBER</u>	<u>MASTER TRUST BENEFICIAL INTEREST</u>	<u>PERCENTAGE INTEREST</u>	<u>CAPITAL CONTRIBUTION</u>	<u>CAPITAL ACCOUNT</u>

EXHIBIT B TO LLC AGREEMENT

REAL ESTATE

EXHIBIT E

TRUSTEE FEES

Conversion Fee

A one-time \$250.00 fee assessed to cover the administrative review and negotiation of the Property Trust Agreement and supporting governing documents. This fee is payable on the Effective Date.

Annual Trustee Fee

A \$500.00 fee to cover the prescribed duties of Trustee in accordance with the terms and conditions of the Property Trust Agreement. This fee is payable on the Effective Date and on each anniversary of the Effective Date.

Out-of-pocket expenses, fees and disbursements, counsel fees and expenses, and services of an unanticipated or extraordinary nature are not included in the above fee schedule and will be billed at cost.

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EXHIBITS

Exhibit A	-	Legal Description of Real Estate
Exhibit B	-	Form of Beneficial Ownership Certificate
Exhibit C	-	Form of Ownership Records
Exhibit D	-	Form of Limited Liability Company Agreement
Exhibit E	-	Trustee Fees

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Exhibit A

Legal Description of Real Estate

289 South Pompano Parkway
Pompano Beach, Florida

All of Tract B of PALM-AIRE MARKETPLACE, according to the plat thereof, as recorded in Plat Book 164, Page 35, of the Public Records of Broward County, Florida.

FILED
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SECRETARY OF STATE
TALLAHASSEE, FLORIDA