

## SECURED PROMISSORY NOTE

Date: \_\_\_\_\_

San Diego, CA

FOR VALUE RECEIVED, the undersigned hereby promises to pay the principal sum of \$ \_\_\_\_\_ (the "**Principal**") as provided in this Secured Promissory Note (this "**Note**") by and between DiversyFund, Inc., a Delaware corporation ("**Borrower**") with a principal office at Symphony Towers 750 B Street Suite 1930, San Diego, CA 92101, USA, and \_\_\_\_\_ ("**Lender**") with an address as Lender may designate by notice to Borrower from time to time.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. Definitions.

- a. "**Change in Control**" means: (i) the acquisition of the Company by another entity by means of any transaction or series of related transactions (including, without limitation, any reorganization, merger or consolidation or stock transfer, but excluding any such transaction effected (A) primarily for the purpose of changing the domicile of the Company or (B) as a bona fide private financing transaction involving the sale by the Company of the Company's securities for capital-raising purposes); or (ii) a sale, lease transfer, exclusive license or other disposition of all or substantially all of the assets of the Company.
- b. "**Due Date**" means the earliest to occur of the following:
  - (i) Two years from the last day of the month of the date first written above; which date can be extended by an additional year at the sole discretion of the Company;
  - (ii) Immediately prior to the consummation of a Change in Control of the Company;
  - (iii) Immediately prior to the initial filing by the Company of a registration statement covering securities of the Company with the Securities and Exchange Commission under the Securities and Exchange Act of 1933, as amended (an "**IPO**");
  - (iv) Immediately prior to this Note becoming prohibited under any applicable law;
  - (v) Borrower fails to observe or perform any covenant, obligation, condition or agreement contained in this Note or the Security Agreement and such failure shall continue for (ten) 10 days after written notice thereof from Lender;
  - (vi) Any representation, warranty, certificate, or other statement (financial or otherwise) made or furnished by or on behalf of the Borrower to Lender in writing in connection with this Note or the Security Agreement, or as an inducement to Lender to enter into this Note or the Security Agreement, shall be false, incorrect, incomplete or misleading in any material respect when made or furnished;
  - (vii) A bankruptcy or insolvency proceeding is instituted by or against Borrower, or a receiver is appointed for the property of Borrower;
  - (viii) Borrower makes an assignment for the benefit of creditors; or
  - (ix) A Default (as defined in the Security Agreement) occurs.

2. Payments. Borrower hereby promises to pay to Lender the Principal, with all accrued interest thereon, as set forth below.
  - a. Interest on the unpaid principal balance of this Note will accrue at an annual rate equal to 12% per annum, non-compounded, commencing on the date hereof, with 4% per annum to be paid quarterly in arrears by the 30th day after the end of each calendar quarter by Borrower to Lender, and the remaining 8% per annum accruing, to be paid at the Due Date.
  - b. The outstanding principal balance, together with any accrued and unpaid interest, shall become due in one lump sum payment on the Due Date.
  - c. All payments will be applied first to any fees or charges payable hereunder, second, against accrued and unpaid interest, and third, against the unpaid principal balance. BORROWER HEREBY WAIVES ANY RIGHTS PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1479 AND 2822 (AND ANY AMENDMENTS OR SUCCESSORS THERETO) TO DESIGNATE HOW PAYMENTS WILL BE APPLIED.
3. Prepayment. Borrower may prepay any portion of this Note and the accrued interest.
4. Security. This Note is secured by a pledge under the terms of a Security Agreement, substantially in the form attached hereto as Exhibit A (the “**Security Agreement**”) and dated as of the date hereof and is subject to all of the provisions thereof.
5. Representations and Warranties of Borrower. Borrower represents and warrants that: (a) Borrower has the right and requisite power and authority to enter into this Note and the Security Agreement and to consummate the transactions contemplated hereby and thereby; (b) this Note and the Security Agreement have been duly executed and delivered by Borrower and constitute valid and binding obligations of Borrower, enforceable against Borrower in accordance with their terms, except as such enforcement may be limited by bankruptcy, insolvency, moratorium, or other similar laws affecting the enforcement of creditors’ rights generally and by general principles of equity (regardless of whether considered in a proceeding at law or in equity); (c) the execution, delivery and performance of this Note and the Security Agreement by Borrower and the consummation of the transactions contemplated hereby and thereby and compliance with the provisions hereof and thereof do not and will not (i) violate any law to which Borrower is subject, (ii) require the consent, waiver, authorization or approval of any third party or governmental entity or (iii) conflict with the bylaws or any provisions of any other organizational documents of the Company.
6. Representations and Warranties of Lender. Lender represents and warrants that Lender has the right and requisite power and authority to enter into this Note and the Security Agreement and consummate the transactions contemplated hereby and thereby. This Note and the Security Agreement have been duly executed and delivered by Lender and constitute a valid and binding obligations of Lender, enforceable against Lender in accordance with their terms, except as such enforcement may be limited by bankruptcy, insolvency, moratorium, or other similar laws affecting the enforcement of creditors’ rights generally and by general principles of equity (regardless of whether considered in a proceeding at law or in equity).
7. Tax Treatment. The parties acknowledge and agree that this Note is, and at all times has been, intended to be characterized as indebtedness for United States federal and state income tax purposes. Accordingly, the parties agree to treat this Note consistent with the foregoing intent for all United States federal and state income tax purposes (including, without limitation, on their respective tax returns or other informational statements).
8. Waiver. Lender shall not be deemed, by any act or omission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by Lender and then only to the extent specifically set forth in such writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event. No delay or omission of Lender to exercise any right, whether before or after a default hereunder, shall impair any such right or shall be construed to be a waiver of any right or default, and the acceptance at any time

by Lender of any past-due amount shall not be deemed to be a waiver of the right to require prompt payment when due of any other amounts then or thereafter due and payable.

9. Time is of the Essence. Time is of the essence hereof. Upon any default hereunder, Lender may exercise all rights and remedies provided for herein and by law or equity, including, but not limited to, the right to immediate payment in full of this Note.
10. Cumulative Remedies. The remedies of Lender as provided herein, or any one or more of them, or in law or in equity, shall be cumulative and concurrent, and may be pursued singularly, successively or together at Lender's sole discretion and may be exercised as often as occasion therefore shall occur.
11. Attorneys' Fees. Borrower agrees to pay all reasonable attorneys' fees and costs incurred by the Lender in connection with the enforcement or collection of any term of this Note. Borrower further agrees to pay all costs of suit and the sum adjudged as attorneys' fees in any action to enforce payment of this Note or any part of it.
12. Interest. If any provisions of this Note would require Borrower to pay interest hereon at a rate exceeding the highest rate allowed by applicable law, Borrower shall instead pay interest under this Note at the highest rate permitted by applicable law.
13. Governing Law. This Note will be governed by and construed in accordance with the internal laws of the State of California (without reference to its conflicts of law provisions).
14. Successors. This Note will be binding upon and will inure to the benefit of the parties hereto and their respective representatives, heirs, administrators, successors and assigns.

***[Signature Page Follows]***

Effective as of the date set forth above.

**BORROWER:**

**DiversyFund, Inc.**

By: \_\_\_\_\_

Name: Craig Cecilio

Title: Chief Executive Officer

**ACCEPTED AND ACKNOWLEDGED:**

**LENDER:**

Entity/Trust/IRA Name (if applicable): \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title (if applicable)

## EXHIBIT A

### SECURITY AGREEMENT

This Security Agreement is made between Pledgee, as noted in the signature block below, (the “**Pledgee**”) and DiversyFund, Inc. (the “**Pledgor**”) as of the date of the Note (defined below).

#### Recitals

In order to induce Pledgee to make a loan to Pledgor under the terms of the Secured Promissory Note (the “**Note**”) between Pledgor and Pledgee of even date herewith, Pledgor herein grants to Pledgee the Security Interest in accordance with the terms hereof to secure the payment and performance of all indebtedness, liabilities, obligations, covenants and duties of the Pledgor to the Pledgee of every kind, nature and description, direct or indirect, absolute or contingent, due or not due, now existing or hereafter arising under or in connection with the Note or this Agreement (collectively, the “**Obligations**”). The Note is one of multiple secured promissory notes (the “**Notes**”), in various amounts, up to an aggregate of One Million Dollars USD, and containing substantially identical terms.

NOW, THEREFORE, it is agreed as follows:

1. Creation and Description of Security Interest. As security for the payment and performance in full of the Obligations, and any extensions, renewals, modifications or refinancings of the Obligations, the Pledgor hereby grants to the Pledgee, its successors and assigns, a lien on, and security interest in, all of such Pledgor’s right, title and interest in and to the following property (the “**Collateral**”): its pro rata share of the \$1,000,000 received by Pledgor *after* the first \$1,000,000, *plus* any accrued but unpaid interest and accrued but unreimbursed attorneys’ fees as provided for herein, or any lesser amount, however characterized, that is paid to or for the benefit of Pledgor in connection with the legal proceedings and claims (whether by judgment, settlement or otherwise) by the Pledgor against Mark Roderick, including the case titled *DF Growth REIT, LLC; DF Growth REIT II, LLC; DiversyFund, Inc.; Craig Cecilio; and Alan Lewis vs. Flaster Greenberg P.C.; Lex Nova Law; and Mark Roderick* filed in the Superior Court of New Jersey (Case Number MER-L-000290-23) and any related claim or legal proceedings against Mark Roderick (the “**Litigation Proceeds**”). Pledgor shall not otherwise encumber the Litigation Proceeds if such encumbrance would impair Pledgee’s rights hereunder or reduce the amount of the Litigation Proceeds that would be available as Collateral. Subject to Section 4, below, in no event shall \$1,500,000 of the Litigation Proceeds after the first \$1,000,000 (the “**Minimum Collateral Amount**”) be subject to any other security interest and Pledgor shall notify any potential holder of a security interest in any part of the Litigation Proceeds of Pledgee’s security interest.

The Collateral shall secure the Obligations, whether or not arising after the commencement of a proceeding under Title 11 of the United States Code (11 U.S.C. Section 101 *et seq.*), as amended from time to time (including post-petition interest) and whether or not allowed or allowable as a claim in any such proceeding.

2. Pledgor’s Representations and Warranties; Covenants. To induce Pledgee to enter into this Security Agreement, Pledgor represents and covenants to Pledgee, its successors and assigns, as follows:

(a) Representations and Warranties. The Pledgor represents and warrants to the Pledgee that:

(i) The Pledgor has good and valid rights in and title to the Collateral with respect to which it has purported to grant a Security Interest hereunder and has full power and authority to grant the Security Interest to the Pledgee and to execute, deliver and perform its obligations in accordance with the terms of this Agreement, without the consent or approval of any other person other than any consent or approval which has been obtained.

(ii) The pledge of the Collateral pursuant to this Agreement creates a valid and perfected Security Interest in the Collateral, securing the payment and performance when due of the Obligations.

(iii) The Collateral is owned by the Pledgor free and clear of any security interest. The Pledgor has not filed or consented to any filing described in Section 2(b)(i) hereof in favor of any person other than the Pledgee, nor permitted the granting or assignment of a Security Interest or permitted perfection of any Security Interest in the Collateral in favor of any person other than the Pledgee. The Security Interest is, or in the case of Collateral in which the Pledgor would obtain rights after the date hereof, will be, a perfected security interest. Such notices, filings and all other action necessary or desirable to perfect and protect the Security Interest have been duly taken or shall be taken immediately upon the creation of the Security Interest.

(iv) This Agreement constitutes the legal, valid and binding obligation of the Pledgor, enforceable against the Pledgor in accordance with its terms, except (a) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, and other laws of general application affecting enforcement of creditors' rights generally, (b) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies, and (c) to the extent the indemnification provisions contained in this Agreement may be limited by applicable federal or state laws.

(v) The Pledgor shall, at its own cost and expense, defend title to the Collateral and the Security Interest of the Pledgee therein against the claim of any person claiming against or through the Pledgor and shall maintain and preserve such perfected Security Interest for so long as this Agreement shall remain in effect.

(b) Covenants.

(i) Pledgor shall deliver fully-executed Uniform Commercial Code financing statements or other appropriate filings, recordings or registrations containing a description of the Collateral to the Pledgee for filing in each United States governmental, municipal or other office as required to publish notice of and protect the validity of and to establish a legal, valid and perfected Security Interest in favor of the Pledgee in respect of all Collateral in which the Security Interest may be perfected by filing, recording or registration in the United States (or any political subdivision thereof) and its territories and possessions.

(ii) The Pledgor shall maintain, at its own cost and expense, such complete and accurate records with respect to the Collateral owned by it as is consistent with its current practices and in accordance with prudent and standard practices, but in any event to include complete accounting records indicating all payments and proceeds received with respect to any part of the Collateral, and, at such time or times as any of the Pledgee may reasonably request, promptly to prepare and deliver to such Pledgee a duly certified schedule or schedules in form and detail satisfactory to such Pledgee showing the identity, amount and location of any and all Collateral.

(iii) Payment of Indebtedness. Pledgor will pay the principal sum of the Note secured hereby, together with interest thereon, at the times and in the manner provided in the Note.

(iv) Ownership; Encumbrances. As of the date of the Note and this Security Agreement, and except in accordance with the provisions of the Note or this Security Agreement, the Collateral will be free of all other encumbrances, defenses and liens, and Pledgor will not further encumber the Collateral without the prior written consent of Pledgee.

3. Default. Pledgor shall be in default of the Note and of this Security Agreement in the event that (a) any event set forth in Section 1.b of the Note shall occur without payment in full of all amounts due under the Note and this Agreement having been paid in full, (b) and amount due pursuant to Section 2 of the Note remains unpaid on the tenth (10<sup>th</sup>) day following the date such amount is due, (each a "**Default**").

In the case of an event of Default, as set forth above, Pledgee shall have the right to accelerate payment of the Note upon notice to Pledgor, and Pledgee shall thereafter be entitled to pursue its remedies under applicable laws. All of Pledgee's remedies under the Note and this Agreement shall be cumulative and not exclusive.

4. Release of Collateral. There shall be released from this pledge a portion of the Collateral held by Pledgeholder hereunder upon payment(s) of the principal of the Note. The amount of the Minimum Collateral Amount

that shall be released shall be equal to the value of the payment(s) of principal of the Notes received by the lenders under the Notes.

5. Withdrawal or Substitution of Collateral. Pledgor shall not sell, withdraw, pledge, substitute or otherwise dispose of all or any part of the Collateral without the prior written consent of Pledgee, which consent shall not be unreasonably withheld.

6. Term. The pledge of Collateral pursuant to this Security Agreement shall continue until the payment or performance of all Obligations secured hereby.

7. Invalidate of Particular Provisions. Pledgor and Pledgee agree that the enforceability or invalidity of any provision or provisions of this Security Agreement shall not render any other provision or provisions herein contained unenforceable or invalid.

8. Successors or Assigns. Pledgor and Pledgee agree that all of the terms of this Security Agreement shall be binding on their respective successors and assigns, and that the term "Pledgor" and the term "Pledgee" as used herein shall be deemed to include, for all purposes, the respective designees, successors, assigns, heirs, executors and administrators.

9. Litigation Expense. If any legal proceeding is commenced for the purpose of interpreting or enforcing any provision of this Agreement, or for the purpose of collecting any obligation secured by this Agreement, the Pledgee will be entitled to recover a reasonable attorneys' fee in the proceeding, or any appeal thereof, to be set by the court without the necessity of hearing testimony or receiving evidence, in addition to the costs and disbursements allowed by law. In addition, the Pledgee will be entitled to recover reasonable attorneys' fees and legal expenses incurred by the Pledgee in connection with obtaining the Litigation Proceeds.

10. Governing Law. This Security Agreement shall be interpreted and governed under the internal substantive laws, but not the choice of law rules, of California.

***[Signature Page Follows]***

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

**PLEDGOR:**

DiversyFund, Inc.

By: \_\_\_\_\_

Name: Craig Cecilio

Title: Chief Executive Officer

**PLEDGEE:**

Entity/Trust/IRA Name (if applicable): \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title (if applicable): \_\_\_\_\_