

**After Recording Return to:**

Loan Funder LLC, Series 9854  
645 Madison Avenue, floor 19,  
New York, NY 10022

Parcel No. 09-31-438-005

**WRE AVENUES, LLC**  
**\$1,491,000.00**  
**November 18, 2019**

**COMMERCIAL DEED OF TRUST, SECURITY AGREEMENT, AND FIXTURE FILING**

KNOW ALL MEN BY THESE PRESENTS that **WRE AVENUES, LLC**, an Utah limited liability company having an office at **2672 Filmore Street, Salt Lake City, UT 84106** ("Trustor" or "Borrower", as the case maybe), in consideration of the debt and trust hereinafter mentioned does hereby GRANT, BARGAIN, SELL, TRANSFER, ASSIGN, and CONVEY and WARRANT in trust unto Old Republic National Title Company ("Trustee"), the following described property (all of which is sometimes referred to collectively herein as the "Property") for the benefit of **LOAN FUNDER LLC, SERIES 9854**, a Delaware limited liability company having its principal place of business at **645 Madison Avenue, Floor 19, New York, NY 10022** ("Beneficiary" or "Lender", as the case maybe):

- (A) All right, title and interest in and to those premises more commonly known as **232 North H Street, Salt Lake City, Utah 84103** which is more particularly described in **SCHEDULE A** (the "Premises") which is attached hereto and made a part hereof;
- (B) TOGETHER WITH (1) all buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Premises, and (2) all building materials, supplies and other property stored at or delivered to the Premises or any other location for incorporation into the improvements located or to be located on the Premises, and all fixtures, machinery, appliances, equipment, furniture and personal property of every nature whatsoever now or hereafter owned by the Trustor and located in or on, or attached to, and used or intended to be used in connection with, or with the operation of, or the occupancy of, the Premises, buildings, structures or other improvements, or in connection with any construction being conducted or which may be conducted thereon, and owned by the Trustor, and all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing, and all of the right, title and interest of the Trustor in and to such personal property which, to the fullest extent permitted by law, shall be conclusively deemed fixtures and a part of the real property encumbered hereby (the "Improvements");
- (C) TOGETHER WITH (1) all estate, right, title and interest of the Trustor, of whatever character, whether now owned or hereafter acquired, in and to (a) all streets, roads and public places, open or proposed, in front of or adjoining the Premises, and the land lying in the bed of such streets, roads and public places, and (b) all other sidewalks, alleys, ways, passages, strips and gores of land adjoining or used or intended to be used in connection with any of the property described in paragraphs (A) and (B) hereof, or any part thereof; and (2) all water courses, water rights, easements, rights-of-way and rights of use or passage, public or private, and all estates, interest,

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Commercial Deed Of Trust, Security Agreement, And Fixture Filing

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11/20/2019 9:22:00 AM \$40.00  
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Recorder, Salt Lake County, UT  
BACKMAN TITLE SERVICES  
BY: eCASH, DEPUTY - EF 26 P.

benefits, powers, rights (including, without limitation, any and all lateral support, drainage, slope, sewer, water, air, mineral, oil, gas and subsurface rights), privileges, licenses, profits, rents, royalties, tenements, hereditaments, reversions and subreversions, remainders and subremainders and appurtenances whatsoever in any way belonging, relating or appertaining to any of the property described in **paragraphs (A) and (B)** hereof, or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by the Trustor; and

- (D)** TOGETHER WITH **(a)** all estate, right, title and interest of the Trustor of, in and to all judgments, insurance proceeds, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property described in **paragraphs (A), (B) and (C)** hereof or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the property described in **paragraphs (A), (B) or (C)** hereof or any part thereof, or to any rights appurtenant thereto, and all proceeds of any sales or other dispositions of the property described in **paragraphs (A), (B) or (C)** hereof, or any part thereof; and the Beneficiary is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor, and (if it so elects) to apply the same, after deducting therefrom any expenses incurred by the Beneficiary in the collection and handling thereof, toward the payment of the indebtedness and other sums secured hereby, notwithstanding the fact that the amount owing thereon may not then be due and payable; and **(b)** all contract rights, general intangibles, governmental permits, licenses and approvals, actions and rights in action, including without limitation all rights to insurance proceeds and unearned premiums, arising from or relating to the property described in **paragraphs (A), (B) and (C)** above; and **(c)** all proceeds, products, replacements additions, substitutions, renewals and accessions of and to the property described in **paragraphs (A), (B) and (C)**.

TO HAVE AND TO HOLD the Property, unto Trustee and Trustee's successors, substitutes, or assigns, in trust and for the uses and purposes herein set forth, forever, together with all rights, privileges, hereditaments, and appurtenances in anywise appertaining or belonging thereto, subject only to the encumbrances set forth in **SCHEDULE B** which is attached hereto and made a part hereof, and Trustor, for Trustor and Trustor's successors, hereby agrees to warrant and forever defend, all and singular, the Property unto Trustee and Trustee's successors or substitutes in this trust against the claim or claims of all persons claiming or to claim the same or any part thereof, except as set forth in said **SCHEDULE B**.

**THE CONDITION OF THIS DEED OF TRUST IS SUCH THAT:**

WHEREAS, the Trustor is indebted to the Beneficiary by virtue of a commercial loan transaction (the "Loan") in the sum of **One Million Four Hundred Ninety One Thousand and 00/100 dollars (\$1,491,000.00)** as evidenced by (1) a certain Commercial Promissory Note in the principal amount of **One Million Four Hundred Ninety One Thousand and 00/100 dollars (\$1,491,000.00)** (as same may be amended, restated, or modified from time to time, the "Note") dated **November 18, 2019** executed by the Trustor and delivered to the Beneficiary, with all amounts remaining unpaid thereon being finally due and payable on **May 15, 2021** and (2) that certain Loan Agreement (as same may be amended, restated, or modified from time to time, "Loan Agreement") of even date herewith;

WHEREAS, the terms and repayment of such obligations of the Trustor are set forth in the Note;

WHEREAS, to secure payment and performance of the indebtedness and obligations represented by the Note, the Trustor is hereby executing this Deed of Trust in favor of the Beneficiary;  
WHEREAS, Beneficiary has agreed to provide financing for the purchase and renovations of the premises located at: **232 North H Street, Salt Lake City, Utah 84103**; and

WHEREAS, Beneficiary has agreed to grant Trustor a deed of trust in the Premises as collateral for the purchasing of the premises located at: **232 North H Street, Salt Lake City, Utah 84103**; and

WHEREAS, at closing, the Beneficiary initially advanced the sum of **Nine Hundred Seventy Eight Thousand Three Hundred Seventy Five and 00/100 dollars (\$978,375.00)** to Trustor on the date hereof and may make further advances of an additional **Four Hundred Twenty Two Thousand Six Hundred Twenty Five and 00/100 dollars (\$422,625.00)** for a total loan in the amount of **One Million Four Hundred Ninety One Thousand and 00/100 dollars (\$1,491,000.00)**; and

WHEREAS, buildings and/or improvements on the Premises are in the process of construction or repair, or are to be constructed, erected or repaired; and

WHEREAS, Beneficiary has agreed to make the Loan to Trustor, the balance of which is to be paid to Trustor in installments, provided Trustor is not in default hereunder, the time and amount of each advancement to be at the sole discretion of Beneficiary, up to **One Million Four Hundred Ninety One Thousand and 00/100 dollars (\$1,491,000.00)** and

WHEREAS, Trustor has leased or intends to lease each of the Premises to Eligible Tenants pursuant to Eligible Leases; and

WHEREAS, Trustor represents and warrants that it has full power and authority to execute and deliver the Note, this Deed of Trust, and all other documents, agreements and instruments required of it by Beneficiary in connection with the making of the Loan (the Note, this Deed of Trust, and all such other documents, agreements and instruments executed and delivered by Trustor in connection with the Loan being sometimes collectively referred to herein as the "Loan Documents").

NOW, THEREFORE, Trustor hereby covenants and agrees with Beneficiary as follows:

#### **ARTICLE ONE: COVENANTS OF THE TRUSTOR**

**1.01 Performance of Loan Documents.** The Trustor shall cause to be performed, observed and complied with all provisions hereof, of the Note and each of the Loan Documents, and will promptly pay to the Beneficiary the principal, with interest thereon, and all other sums required to be paid by the Trustor under the Note and pursuant to the provisions of this Deed of Trust and of the Loan Documents when payment shall become due (the entire principal amount of the Note, all accrued interest thereon and all obligations and indebtedness thereunder and hereunder and under all of the Loan Documents described being referred to herein as the "Indebtedness").

**1.02 General Representations, Covenants and Warranties.** The Trustor represents and covenants that (a) the Trustor is now able to meet its debts as they mature, the fair market value of its assets exceeds its liabilities and no bankruptcy or insolvency case or proceeding is pending or contemplated by or against the Trustor; (b) all reports, statements and other data furnished by the Trustor to the Beneficiary in connection with the Loan are true, correct and complete in all material respects and do not omit to state any fact or

circumstance necessary to make the statements contained therein not misleading; (c) this Deed of Trust, the Note and all other Loan Documents are legal, valid and binding obligations of the Trustor enforceable in accordance with their respective terms and the execution and delivery thereof do not contravene any contract or agreement to which the Trustor is a party or by which the Trustor may be bound and do not contravene any law, order, decree, rule or regulation to which the Trustor is subject; (d) there are no actions, suits or proceedings pending, or to the knowledge of the Trustor threatened, against or affecting the Trustor or any part of the Property; (e) all costs arising from construction of any improvements and the purchase of all equipment located on the Property which have been incurred prior to the date of this Deed of Trust have been paid; (f) the Property has frontage on, and direct access for, ingress and egress to the street(s) described in any survey submitted to the Beneficiary; (g) electric, sewer, water facilities and any other necessary utilities are, or will be, available in sufficient capacity to service the Property satisfactorily during the term of the Note, and any easements necessary to the furnishing of such utility service by the Trustor have been or will be obtained and duly recorded (evidence satisfactory to the Beneficiary that all utility services required for the use, occupancy and operations of the Property shall be provided to the Beneficiary immediately upon the Beneficiary's request); (h) there has not been, is not presently and will not in the future be any activity conducted by the Trustor or any tenant at or upon any part of the Property that has given or will give rise to the imposition of a lien on any part of the Property; (i) the Trustor is not in default under the terms of any instrument evidencing or securing any indebtedness of the Trustor, and there has occurred no event which would, if uncured or uncorrected, constitute a default under any such instrument with the giving of notice, or the passage of time or both; and (j) the Beneficiary has legal capacity to enter into the Loan and to execute and deliver the Loan Documents, and the Loan Documents have been duly and properly executed on behalf of the Beneficiary.

**1.03 Compliance with Laws; Permits; Notice.** The Trustor covenants and warrants that the Property presently complies with and shall continue to comply with all applicable restrictive covenants, applicable zoning, wetlands and subdivision ordinances and building codes, all applicable health and environmental laws and regulations and all other applicable laws, statutes, rules, ordinances, codes, and regulations, and the Trustor has not received any notice that the Property is not in compliance with any such laws, statutes, rules, ordinances, codes and regulations. If the Trustor receives notice from any federal, state or other governmental body that it is not in compliance with any such laws, statutes, rules, ordinances, codes and regulations, the Trustor shall provide the Beneficiary with a copy of such notice promptly. The Trustor agrees to comply with all federal, state and municipal local laws, statutes, rules, ordinances, codes and regulations in connection with the construction and development of the Property. The Trustor has obtained all licenses, permits, authorizations, consents and approvals necessary for the construction and development of the Property, and all such licenses, permits, authorizations, consents and approvals are in full force and effect and all appeal periods have expired. Unless required by applicable law or unless the Beneficiary has otherwise agreed in writing, the Trustor shall not allow changes in the nature of the occupancy for which the Premises were intended at the time this Deed of Trust was executed. The Trustor shall not initiate or acquiesce in a change in the zoning classification of the Property without the Beneficiary's prior written consent. The Trustor warrants and represents that its use, and the use by any of its tenants, of the Property is in accordance and compliance with the terms and conditions of any and all rules, regulations, and laws that may be applicable to the Property, including, without limitation, all federal, state and local laws, ordinances, rules and regulations regarding hazardous and toxic materials and that the Trustor shall maintain and continue such compliance and shall require and ensure its tenants' compliance with the same. The Trustor shall maintain or shall cause their agent to maintain in its possession, available for the inspection of the Beneficiary, and shall deliver to the Beneficiary, upon three (3) business days' request, evidence of compliance with all such requirements. The Trustor hereby indemnifies and holds the

Beneficiary free of and harmless from and against any and all claims, demands, damages or liabilities that the Beneficiary may incur with regard thereto.

#### **1.04 Taxes and Other Charges.**

**1.04.1 Impositions.** Subject to the provisions of this **Section 1.04**, the Trustor shall pay, at least five (5) days before the date due, all real estate taxes, personal property taxes, assessments, water and sewer rates and charges, license fees, all charges which may be imposed for the use of vaults, chutes, areas and other space beyond the lot line and abutting the public sidewalks in front of or adjoining the Land, and all other governmental levies and charges (collectively, the "Impositions"), of every kind and nature whatsoever, general and special, ordinary and extraordinary, foreseen and unforeseen, which shall be assessed, levied, confirmed, imposed or become a lien upon or against the Property or any part thereof, or which shall become payable with respect thereto. The Trustor shall deliver to the Beneficiary, within twenty (20) days after the due date of each payment in connection with the Impositions or any assessment for local improvements ("Assessment"), the original or a true Photostatic copy of the official receipt evidencing such payment or other proof of payment satisfactory to the Beneficiary.

#### **1.04.2 Insurance.**

(a) The Trustor shall keep all buildings erected on or to be erected on the Property insured against loss by fire and such other hazards as the Beneficiary may require and the Trustor shall obtain and maintain insurance with respect to other insurable risks and coverage relating to the Property including, without limitation, fire, builder's risk, worker's compensation, physical damages, loss of rentals or business interruption, earthquake (if applicable), and liability insurance, all such insurance to be in such sums and upon such terms and conditions as the Beneficiary reasonably may require, with loss proceeds by the terms of such policies made payable to the Beneficiary as its interest may appear. The Trustor covenants that all insurance premiums shall be paid not later than fifteen (15) days prior to the date on which such policy could be cancelled for non-payment. If, to the Trustor's knowledge, any portion of the Property is in an area identified by any federal governmental authority as having special flood hazards, and flood insurance is available, a flood insurance policy meeting the current guidelines of FEMA's Federal Insurance and Mitigation Administration is in effect with a generally acceptable insurance carrier, in an amount representing coverage not less than the least of (1) the outstanding principal balance of the Loan, (2) the full insurable value of the Property, and (3) the maximum amount of insurance available under the Flood Disaster Protection Act of 1973, as amended. All such insurance policies (collectively, the "hazard insurance policy") shall contain a standard the Beneficiary clause naming the Beneficiary and its successors and assigns as beneficiary, and may not be reduced, terminated, or canceled without thirty (30) days' prior written notice to the Beneficiary.

(b) Such insurance companies shall be duly qualified as such under the laws of the states in which the Property is located, duly authorized and licensed in such states to transact the applicable insurance business and to write the insurance provided, and companies whose claims paying ability is rated in the two highest rating categories by A.M. Best with respect to hazard and flood insurance. Such insurance shall be in amounts not less than the greater of: (i) the outstanding principal balance of the Loan, or (ii) the amount necessary to avoid the operation of any co-insurance provisions with respect to the Premises.

(c) All such policies must provide for a minimum of thirty (30) days prior written cancellation notice to the Beneficiary. the Beneficiary, upon its request to the Trustor, will have custody of all such policies and all other policies which may be procured insuring said Property, the same to be delivered, to the Beneficiary at its office and all renewal policies to be delivered and premiums paid to the Beneficiary at its office at least twenty (20) days before the expiration of the old policies, and the Trustor agrees that upon failure to maintain the insurance as above stipulated or to deliver said renewal policies as aforesaid, or the pay the premiums therefor, the Beneficiary may, without obligation to do so, procure such insurance and pay the premiums therefor and all sums so expended shall immediately be paid by the Trustor and unless so paid, shall be deemed part of the debt secured hereby and shall bear interest at the rate set forth in the Note, and thereupon the entire principal sum unpaid, including such sums as have been paid for premiums of insurance as aforesaid, and any and all other sums which shall be payable hereunder shall become due and payable forthwith at the option of the Beneficiary, anything herein contained to the contrary notwithstanding. In case of loss and payment by any insurance company, the amount of insurance money received shall be applied either to the Indebtedness secured hereby, or in rebuilding and restoring the damaged property, as the Beneficiary may elect.

(d) The Trustor has not engaged in and shall not engage in any act or omission which would impair the coverage of any such policy, the benefits of the endorsement provided for herein, or the validity and binding effect of either including, without limitation, no unlawful fee, commission, kickback, or other unlawful compensation or value of any kind has been or will be received, retained, or realized by any attorney, firm, or other person, and no such unlawful items have been received, retained, or realized by the Trustor.

(e) No action, inaction, or event has occurred and no state of facts exists or has existed that has resulted or will result in the exclusion from, denial of, or defense to coverage under any applicable special hazard insurance policy or bankruptcy bond, irrespective of the cause of such failure of coverage.

**1.04.3 Deposits for Impositions and Insurance.** Notwithstanding anything to the contrary contained in any of the Loan Documents, upon demand by the Beneficiary, after failure by the Trustor to pay any of the amounts specified in **Subsections 1.04.1 or 1.04.2**, the Trustor shall deposit with the Beneficiary on the first day of each month an amount equal to one twelfth (1/12th) of the sum of: (i) the aggregate annual payments for the Impositions; (ii) the annual insurance premiums on the policies of insurance required to be obtained and kept in force by the Trustor under this Deed of Trust; and (iii) all other periodic charges (other than interest and principal under the Note) arising out of the ownership of the Property or any portion thereof which are or with notice or the passage of time or both will become a lien against the Property or any part thereof ((i), (ii), and (iii), collectively, the "Annual Payments"). Such sums will not bear interest and are subject to adjustment or additional payments in order to assure the Beneficiary that it will have the full amount of any payment on hand at least one (1) month prior to its due date. the Beneficiary shall hold said sums in escrow to pay said Annual Payments in the manner and to the extent permitted by law when the same become due and payable. Notwithstanding anything herein to the contrary, however, such deposits shall not be, nor be deemed to be, trust funds but may be commingled with the general funds of the Beneficiary. If the total payments made by the Trustor to the Beneficiary, on account of said Annual Payments up to the time when the same become due and payable, shall exceed the amount of payment for said Annual Payments actually made by the Beneficiary, such excess shall be credited by the Beneficiary against the next payment or payments due from the Trustor to the Beneficiary on account of said Annual Payments. If, however, said payments made by the Trustor shall not be sufficient to pay said

Annual Payments when the same become due and payable, the Trustor agrees to promptly pay to the Beneficiary the amount necessary to make up any deficiency. In case of default in the performance of any of the agreements or provisions contained in the Note, the Beneficiary may, at its option, at any time after such default, apply the balance remaining of the sums accumulated, as a credit against the principal or interest of the Deed of Trust Indebtedness, or both.

**1.04.4 Late Charge.** The Beneficiary may collect a "late charge" of five percent (5%) on any payment or installment due or required to be paid pursuant to the terms of this Deed of Trust or the Note which is not paid within ten (10) days of when the same is required to be paid to cover the extra expenses involved in handling such delinquent payment.

**1.04.5 Proof of Payment.** Upon request of the Beneficiary, the Trustor shall deliver to the Beneficiary, within twenty (20) days after the due date of any payment required in this **Section 1.04**, proof of payment satisfactory to the Beneficiary.

**1.05 Condemnation.** The Beneficiary shall be entitled to all compensation awards, damages, claims, rights of action and proceeds of, or on account of, any damage or taking through condemnation, eminent domain or the like, and the Beneficiary is hereby authorized, at its option, to commence, appear in and prosecute in its own or the Trustor's name any action or proceeding relating to any such condemnation, taking or the like and to settle or compromise any claim in connection therewith.

**1.06 Care of Property; Demolition and Alteration.** The Trustor shall maintain the Property in good condition and repair, shall not commit or suffer any waste of the Property, and shall comply with or cause to be complied with, all statutes, laws, rules, ordinances and requirements of any governmental authority relating to the Property; and the Trustor shall promptly repair, restore, replace or rebuild any part of the Property now or hereafter subject to the lien of this Deed of Trust which may be damaged or destroyed by any casualty whatsoever or which may be affected by any proceeding of the character referred to in **Section 1.05**. The Trustor shall complete and pay for, within a reasonable time, any structure in the process of construction on the Property at any time during the term of the Loan; and the Trustor shall not initiate, join in, or consent to any change in any private restrictive covenants, or private restrictions, limiting or defining the uses which may be made of the Property or any part thereof, without the written consent of the Beneficiary. The Trustor agrees that no building or other property now or hereafter covered by the lien of this Deed of Trust shall be removed, demolished, or materially altered, without the prior written consent of the Beneficiary, except that the Trustor shall have the right, without such consent, to remove and dispose of, free from the lien of this Deed of Trust, such equipment as from time to time may become worn out or obsolete, provided that simultaneously with or prior to such removal any such equipment shall be replaced with other equipment of value at least equal to that of the replaced equipment and free from any title retention or security agreement or other encumbrance, and by such removal and replacement the Trustor shall be deemed to have subjected such equipment to the lien of this Deed of Trust.

**1.07 Transfer and Encumbrance of Property.**

(a) The Trustor shall not sell, convey, transfer, suffer any type of change in title or ownership, lease, assign or further encumber any interest in any part of the Property, without the prior written consent of the Beneficiary. Any such sale, conveyance, transfer, pledge, lease, assignment or encumbrance made without the Beneficiary's prior written consent shall be null and void and shall constitute a default hereunder. The Trustor shall not, without the prior written consent of the Beneficiary, permit any further assignment of the

rents, royalties, issues, revenues, income, profits or other benefits from the Property, or any part thereof, and any such assignment without the prior written consent of the Beneficiary shall be null and void and shall constitute a default hereunder. the Trustor agrees that in the event the ownership of the Property or any part thereof is permitted by the Beneficiary to be vested in a person other than the Trustor, the Beneficiary may, without notice to the Trustor, deal in any way with such successor or successors in interest with reference to this Deed of Trust and the Note and other sums hereby secured without in any way vitiating or discharging the Trustor's liability hereunder or upon the Note and other sums hereby secured. No sale of the Property and no forbearance to any person with respect to this Deed of Trust and no extension to any person of the time for payment of the Note and other sums hereby secured given by the Beneficiary shall operate to release, discharge, modify, change or affect the original liability of the Trustor either in whole or in part.

(b) If the Trustor shall sell, convey, assign or transfer all or any part of the Property or any interest therein or any beneficial interest in the Trustor without the Beneficiary's prior written consent, the Beneficiary may, at the Beneficiary's option, without demand, presentment, protest, notice of protest, notice of intent to accelerate, notice of acceleration or other notice, or any other action, all of which are hereby waived by the Trustor and all other parties obligated in any manner on the Indebtedness, declare the Indebtedness to be immediately due and payable, which option may be exercised at any time following such sale, conveyance, assignment, lease or transfer, and upon such declaration the entire unpaid balance of the Indebtedness shall be immediately due and payable.

(c) The Trustor shall keep the Property free from mechanics' liens, materialmen's liens and encumbrances except for Preliminary mechanics liens filed as a matter of course at work inception at the Property. If any prohibited lien or encumbrance is filed against the Property, the Trustor shall cause the same to be removed and discharged of record within thirty (30) days after the date of filing thereof.

(d) The Trustor shall obtain, upon request by the Beneficiary, from all persons hereafter having or acquiring any interest in or encumbrance on the Property or the said equipment or accessions, a writing duly acknowledged, and stating the nature and extent of such interest or encumbrance and that the same is subordinate to this Deed of Trust and no offsets or defenses exist in favor thereof against this Deed of Trust or the Note hereby secured, and deliver such writing to the Beneficiary.

**1.08 Further Assurances.** At any time and from time to time upon the Beneficiary's request, the Trustor shall make, execute and deliver, or cause to be made, executed and delivered, to the Beneficiary and, where appropriate, shall cause to be recorded or filed, and from time to time thereafter to be re-recorded and refiled, at such time and in such offices and places as shall be deemed desirable by the Beneficiary, any and all such further Deed of Trusts, instruments of further assurance, certificates and such other documents as the Beneficiary may consider necessary or desirable in order to effectuate, complete or perfect, or to continue and preserve, the obligations of the Trustor under the Note and this Deed of Trust, the lien of this Deed of Trust as a lien upon all of the Property, and unto all and every person or persons deriving any estate, right, title or interest under this Deed of Trust. Upon any failure by the Trustor to do so, the Beneficiary may make, execute, record, file, re-record or refile any and all such Deed of Trusts, instruments, certificates and documents for and in the name of the Trustor, and the Trustor hereby irrevocably appoints the Beneficiary the agent and attorney-in-fact of the Trustor to do so.

**1.09 Uniform Commercial Code Security Agreement and Fixture Filing.** This Deed of Trust is intended to be a security agreement and fixture filing which is to be filed for record in the real estate records pursuant to the Uniform Commercial Code in effect from time to time in the State of Utah for any of the goods specified above in this Deed of Trust as part of the Property which, under applicable law, may be subject to





in the event an Event of Default occurs hereunder or under the Note or any of the Loan Documents, all costs, fees and expenses, including, without limitation, all reasonable attorneys' fees in connection with the enforcement under the Note or foreclosure under this Deed of Trust, preparation for enforcement of this Deed of Trust or any other Loan Documents, whether or not suit or other action is actually commenced or undertaken; (d) enforcement of this Deed of Trust or any other Loan Documents; (e) court or administrative proceedings of any kind to which the Beneficiary may be a party, either as plaintiff or defendant, by reason of the Note, the Deed of Trust or any other Loan Documents; (f) preparation for and actions taken in connection with the Beneficiary's taking possession of the Property; (g) negotiations with the Trustor, its beneficiary, or any of its agents in connection with the existence or cure of any Event of Default or default; (h) any proposed refinancing by the Trustor or any other person or entity of the debt secured hereby; (i) the transfer of the Property in lieu of foreclosure; (j) inspection of the Property pursuant to **Section 1.15**; and (k) the approval by the Beneficiary of actions taken or proposed to be taken by the Trustor, its beneficiary, or other person or entity which approval is required by the terms of this Deed of Trust or any other of the Loan Document. The Trustor will, upon demand by the Beneficiary, reimburse the Beneficiary or any takeout lender for all such expenses which have been incurred or which shall be incurred by either of them; and will indemnify and hold harmless the Beneficiary from and against, and reimburse it for, the same and for all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses (including, without limitation, attorneys' fees) which may be imposed upon, asserted against, or incurred or paid by it by reason of, on account of or in connection with any bodily injury or death or property damage occurring in or upon or in the vicinity of the Property through any cause whatsoever or asserted against it on account of any act performed or omitted to be performed hereunder or on account of any transaction arising out of or in any way connected with the Property, or with this Deed of Trust or the Indebtedness.

**1.13 The Beneficiary's Performance of Defaults.** If the Trustor defaults in the payment of any tax, Assessment, encumbrance or other Imposition, in its obligation to furnish insurance hereunder, or in the performance or observance of any other covenant, condition, agreement or term in this Deed of Trust, the Note or in any of the Loan Documents, the Beneficiary may, without obligation to do so, to preserve its interest in the Property, perform or observe the same, and all payments made (whether such payments are regular or accelerated payments) and costs and expenses incurred or paid by the Beneficiary in connection therewith shall become due and payable immediately. The amounts so incurred or paid by the Beneficiary, together with interest thereon at the default rate, as provided in the Note, from the date incurred until paid by the Trustor, shall be added to the Indebtedness and secured by the lien of this Deed of Trust to the extent permitted by law. The Beneficiary is hereby empowered to enter and to authorize others to enter upon the Property or any part thereof for the purpose of performing or observing any such defaulted covenant, condition, agreement or term, without thereby becoming liable to the Trustor or any person in possession holding under the Trustor.

**1.14 Financial Statements, Books, and Records.** The Trustor will furnish to the Beneficiary, within thirty (30) days after a request therefor, a detailed statement in writing, covering the period of time specified in such request, showing all income derived from the operation of the Property, and all disbursements made in connection therewith, and containing a list of the names of all tenants and occupants of the Property, the portion or portions of the Property occupied by each such tenant and occupant, the rent and other charges payable under the terms of their leases or other agreements and the period covered by such leases or other agreements.

**1.15 Inspection.** The Beneficiary, and any persons authorized by the Beneficiary, shall have the right, at the Beneficiary's option, to enter and inspect the Premises during the fourth (4<sup>th</sup>) month and at all other

reasonable times during the term of the Loan. The Trustor shall pay any professional fees and expenses, which may be incurred by the Beneficiary in connection with such inspection.

**1.16 Loan to Value Covenant.** If at any one or more time(s) during the term of the Note the then aggregate outstanding and committed principal amount of the Note, plus accrued interest and fees thereon, plus all amounts outstanding under any debts secured by prior liens on the Premises, is greater than seventy percent (70%) of the value of the Premises, as determined by Beneficiary based upon Beneficiary's review of any appraisal and such other factors as Beneficiary may deem appropriate, then Trustor shall within thirty (30) days following a request by Beneficiary, prepay the Note by an amount sufficient to cause the then outstanding principal amount of the Note, plus accrued interest and fees thereon, to be reduced to an amount equal to or less than seventy percent (70%) of the value of the Premises. The inability of Trustor to reduce the principal balance of the Note within thirty (30) days following request by Beneficiary shall be, at Beneficiary's option, an Event of Default, hereunder.

## ARTICLE TWO: DEFAULTS

**2.01 Event of Default.** The term "Event of Default" or "default" wherever used in this Deed of Trust, shall mean anyone or more of the following events: (a) failure by the Trustor to pay any installment of principal and/or interest under the Note within five (5) days after the same becomes due and payable; (b) failure by the Trustor to observe or perform, or upon any default in, any other covenants, agreements or provisions herein, in the Note, or in any of the Loan Documents; (c) failure by the Trustor to pay any Imposition, Assessment, other utility charges on or lien against the Property; (d) failure by the Trustor to keep in force the insurance required in this Deed of Trust; (e) failure by the Trustor to either deliver the policies of insurance described in this Deed of Trust or to pay the premiums for such insurance as provided herein; (f) failure by the Trustor to pay any installment, which may not then be due or delinquent, of any Assessment for local improvements for which an official bill has been issued by the appropriate authorities and which may now or hereafter affect the Property, and may be or become payable in installments; (g) the actual or threatened waste, removal or demolition of, or material alteration to, any part of the Property, except as permitted herein; (h) the vesting of title, or any sale, conveyance, transfer, leasing, assignment or further encumbrance in any manner whatsoever of any interest in the Property, or any part thereof, in or to anyone other than the present owner, or any change in title or ownership of the Property, or any part thereof, without the prior written consent of the Beneficiary; (i) all or a material portion of the Property being taken through condemnation, eminent domain, or any other taking such that the Beneficiary has reason to believe that the remaining portion of the Property is insufficient to satisfy the outstanding balance of the Note, or the value of the Property being impaired by condemnation, eminent domain or any other taking, (which term when used herein shall include, but not be limited to, any damage or taking by any governmental authority or any other authority authorized by the laws of any state or the United States of America to so damage or take, and any transfer by private sale in lieu thereof), either temporarily for a period in excess of thirty (30) days, or permanently; (j) the merger or dissolution of the Trustor or the death of any guarantor of the Note ("Guarantor"); (k) any representation or warranty of the Trustor or any Guarantor made herein or in any such guaranty or in any certificate, report, financial statement, or other instrument furnished in connection with the making of the Note, the Deed of Trust, or any such guaranty, shall prove false or misleading in any material respect; (l) Maker makes or takes any action to make a general assignment for the benefit of its creditors or becomes insolvent or has a receiver, custodian, trustee in Bankruptcy, or conservator appointed for it or for substantially all or any of its assets; (m) the Trustor files, or becomes the subject of, a petition in bankruptcy, or upon the commencement of any proceeding or action under any bankruptcy laws, insolvency laws, relief of debtors laws, or any other similar law affecting the Trustor, provided however, that the Trustor shall have sixty (60) days from the filing of any involuntary petition in bankruptcy to have

the same discharged and dismissed; (n) the Property becomes subject to (1) any tax lien which is superior to the lien of the Deed of Trust, other than a lien for local real estate taxes and assessments not due and payable or (2) any mechanic's, materialman's, or other lien which is, or is asserted to be, superior to the lien of the Deed of Trust and such lien shall remain undischarged for thirty (30) days, (o) the Trustor fails to promptly cure any violations of laws or ordinances affecting or which may be interpreted to affect the Property; (p) in the event of any material adverse change in the financial condition of the Trustor; or (q) any of the aforementioned events occur with respect to any Guarantor.

### **ARTICLE THREE: REMEDIES**

In the event that an Event of Default or default shall have occurred, the remedies available to the Beneficiary include, but are not limited to, any and all rights and remedies available hereunder, any and all rights and remedies available at law, in equity, or by statute. Without limiting the foregoing, the rights and remedies available to the Beneficiary shall include, but not be limited to, any one or more of the following:

**3.01 Acceleration of Maturity.** If an Event of Default shall have occurred, the Beneficiary may, at its option, declare without demand or notice all of the outstanding Indebtedness to be due and payable immediately, and upon such declaration such Indebtedness shall immediately become and be due and payable without demand or notice.

**3.02 The Beneficiary's Right to Enter and Take Possession.** If an Event of Default shall have occurred, the Trustor, upon demand on the Beneficiary, shall forthwith surrender to the Beneficiary the actual possession of the Property and the Beneficiary itself, or by such officers or agents as it may appoint, may enter and take possession of the Property, collect and receive the rents and income therefrom, and to apply so much of said rents and income as may be required in the necessary expenses of running said Premises, including reasonable attorneys' fees, management agents' fees, and if the Beneficiary manages the Premises with its own employees, an amount equal to the customary management agents' fees charged for similar property in the area where the Premises are located, and to apply the balance of said rents and income to the payment of the amounts due upon said Note, or in payment of taxes assessed against the Premises, or both. And for this purpose, and in case of such default, the Trustor hereby assigns, transfers, and sets over to the Beneficiary the rents and income accruing from said Premises. Nothing contained in the foregoing provisions shall impair or affect any right or remedy which the Beneficiary might now or hereafter have, were it not for such provisions, but the rights herein given shall be in addition to any others which the Beneficiary may have hereunder.

**3.03 Receiver.** If an Event of Default shall have occurred, the Beneficiary, to the extent permitted by law and without regard to the value or occupancy of the security, shall be entitled to apply for the appointment of a receiver of the rents and profit of the Property without notice, and shall be entitled to the appointment of such a receiver as a matter of right, without consideration of the value of the Property as security for the amounts due the Beneficiary, or the solvency of any person or limited liability company liable for the payment of such amounts.

**3.04 Trustee's Sale.** If any Event of Default occurs, Beneficiary is authorized and empowered, without further notice, to execute or cause the Trustee to execute a written notice of default and of election to cause the Property to be sold as required by law or as otherwise provided herein, and the Trustee shall file such notice for record in each county wherein the Property or any part thereof is situated. After such filing, the Trustee may lawfully foreclose and shall foreclose the lien of this Deed of Trust, and sell and dispose of the Property in masse or in separate parcels (as Beneficiary may elect) and all the right, title, and interest of

Trustor therein, at a public auction at any place then authorized by law as may be specified in the notice of such sale, for the price permitted by law (the "Trustee's Sale"), legally required public notice having previously been given of the time and place of such sale. The Trustee, without demand on Trustor, shall sell the Property on the date and at the time and place designated in the notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which such Property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient in accordance with applicable law, postpone the sale from time to time until it shall be completed and, in every case, notice of postponement shall be given as required by law. Trustee shall execute and deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorneys' fees; (2) cost of any evidence of title procured in connection with such sale; (3) all sums expended under the terms hereof, not then repaid, with accrued interest as provided herein from date of expenditure; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place.

**3.05 Attorneys' Fees.** If this Deed of Trust is foreclosed by the Trustee, the Trustee shall allow a reasonable amount of attorneys' fees for services rendered in the supervision of such foreclosure proceedings as a part of the cost of foreclosure. If the foreclosure proceedings are made through court proceedings, attorneys' fees in an amount determined by the court to be reasonable shall be taxed by the court as a part of the cost of such foreclosure proceedings.

**3.06 Waiver of Appraisalment, Valuation, Stay, Exemption, and Redemption Laws, etc.; Marshaling.** The Trustor agrees to the full extent permitted by law that after an Event of Default neither the Trustor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisalment, valuation, stay, exemption, moratorium, or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust, and the Trustor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, any and all right to have the assets comprising the Property marshaled upon any foreclosure hereof.

**3.07 Suits to Protect the Property.** The Beneficiary shall have the power and authority to institute and maintain any suits and proceedings as the Beneficiary may deem advisable in order to (a) prevent any impairment of the Property, (b) foreclose this Deed of Trust, (c) preserve and protect its interest in the Property, and (d) to restrain the enforcement of, or compliance with, any legislation or other governmental enactment, rule, or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to the Beneficiary's interest.

**3.08 Proofs of Claim.** In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial case or proceeding affecting the Trustor, its creditors or its property, the Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claims allowed in such case or proceeding for the entire Indebtedness at the date of the institution of such case or proceeding, and for any additional amounts which may become due and payable by the Trustor after such date.

**3.09 Application of Monies by the Beneficiary.** After the occurrence of an Event of Default, any monies collected or received by the Beneficiary shall be applied in such priority as the Beneficiary may determine in its sole and absolute discretion, to such matters including, but not limited to, the payment of compensation, expenses and disbursements of the agents, attorneys and other representatives of the Beneficiary, to deposits for Impositions and Insurance and insurance premiums due, to the cost of insurance, Impositions, Assessments, and other charges and to the payment of the Indebtedness.

**3.10 No Waiver.** Notwithstanding any course of dealing or course of performance, neither failure nor delay on the part of the Beneficiary to exercise any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power, or privilege.

**3.11 No Waiver of One Default to Affect Another.** No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies consequent thereon. If the Beneficiary (a) grants forbearance or an extension of time for the payment of any of the Indebtedness; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted in the Note, this Deed of Trust or any other of the Loan Documents; (d) releases any part of the Property from the lien of this Deed of Trust or any other of the Loan Documents or releases or any party liable under the Note; (e) consents to the filing of any map, plat or replat of the Land; (f) consents to the granting of any easement on the Land; or (g) makes or consents to any agreement changing the terms of this Deed of Trust or subordinating the lien or any charge hereof, no such act or omission shall release, discharge, modify, change or affect the original liability under this Deed of Trust or otherwise of the Trustor, or any subsequent purchaser of the Property or any part thereof or any maker, co-signer, endorser, surety or guarantor. No such act or omission shall preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary, shall the lien of this Deed of Trust be altered thereby.

**3.12 Remedies Cumulative.** No right, power or remedy conferred upon or reserved to the Beneficiary by the Note, this Deed of Trust or any other of the Loan Documents is exclusive of any other right, power and remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Note or any other of the Loan Documents, or now or hereafter existing at law, in equity or by statute.

**3.13 Interest after Event of Default; Default Rate.** If an Event of Default shall have occurred, all sums outstanding and unpaid under the Note and this Deed of Trust shall, at the Beneficiary's option, bear interest at the default rate set forth in the Note.

**3.14 Indemnification of Trustee.** Except for gross negligence or willful misconduct, Trustee shall not be liable for any act or omission or error of judgment. Trustee may rely on any document believed by Trustee in good faith to be genuine. All money received by Trustee shall, until used or applied as herein provided, be held in trust, but need not be segregated (except to the extent required by law), and Trustee shall not be liable for interest thereon. Trustor shall indemnify Trustee against all liability and expenses which Trustee may incur in the performance of Trustee's duties hereunder.

**3.15 Substitute Trustee.** Beneficiary may appoint a substitute Trustee (a) if Trustee herein named or any substitute Trustee shall die, resign, or fail, refuse or be unable, for any reason, to make any such sale or to

perform any of the trusts herein declared; or (b) at the option of Beneficiary from time to time as often and whenever Beneficiary prefers and with or without any reason or cause. Each appointment shall be in writing, but without the necessity of recordation, notice to Trustor, or any other action or formality. Each substitute Trustee so appointed shall thereupon by such appointment become Trustee and succeed to all the estates, titles, rights, powers, trusts and duties of predecessor Trustee. Any such appointment may be executed by Beneficiary or any authorized representative of Beneficiary, and such appointment shall be presumed conclusively to have been executed with due and proper authority. Without limiting the generality of the foregoing, if Beneficiary is a corporation, bank or association, of any type or character, such appointment may be executed in its behalf by any officer of Beneficiary and shall be presumed conclusively to have been executed with due and proper authority without necessity of proof of any action by the board of directors or any superior officer. Wherever herein the word "Trustee" is used, the same shall mean the duly appointed trustee or substitute trustee hereunder at the time in question. Trustee may resign by written notice to Beneficiary.

**3.16 Provisional Remedies: Foreclosure And Injunctive Relief:** Nothing shall be deemed to apply to limit the right of Trustee to: (a) exercise self-help remedies, (b) foreclose judicially or non-judicially against any real or personal property collateral, or to exercise judicial or non-judicial power of sale rights, (c) obtain from a court provisional or ancillary remedies (including, but not limited to, injunctive relief, a writ of possession, prejudgment attachment, a protective order or the appointment of a receiver) or (d) pursue rights against Trustor or any other party in a third party proceeding in action brought against Beneficiary (including, but not limited to, actions in bankruptcy court). Beneficiary may exercise the rights set forth in the foregoing clauses (a) through (d), inclusive, before, during, or after the pendency of any proceeding.

#### **ARTICLE FOUR: MISCELLANEOUS PROVISIONS**

**4.01 Heirs, Successors and Assigns Included in Parties.** Whenever one of the parties hereto is named or referred to herein, the heirs, successors and assigns of such party shall be included and all covenants and agreements contained in this Deed of Trust, by or on behalf of the Trustor or the Beneficiary shall bind and inure to the benefit of their respective heirs, successors and assigns, whether so expressed or not.

#### **4.02 Addresses for Notices, etc.**

(a) Any notice, report, demand or other instrument authorized or required to be given or furnished under this Deed of Trust shall be in writing, signed by the party giving or making the same, and shall be sent by certified mail, return receipt requested, as follows:

**THE TRUSTOR:** WRE AVENUES, LLC  
2672 Filmore Street, Salt Lake City, UT 84106

#### **Copy to:**

**THE BENEFICIARY:** Loan Funder LLC, Series 9854  
645 Madison Avenue, floor 19,  
New York, NY 10022

(b) Either party may change the address to which any such notice, report, demand or other instrument is to be delivered or mailed, by furnishing written notice of such change to the other party, but no such notice of change shall be effective unless and until received by such other party.

**4.03 Headings.** The headings of the articles, sections, paragraphs and subdivisions of this Deed of Trust are for convenience of reference only, are not to be considered a part hereof and shall not limit or expand or otherwise affect any of the terms hereof.

**4.04 Provisions Subject to Applicable Laws; Severability** All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any law and are intended to be limited to the extent necessary so that they will not render this Deed of Trust invalid or unenforceable. In the event that any of the covenants, agreements, terms or provisions contained in the Note, or in this Deed of Trust or in any other Loan Documents shall be deemed invalid, illegal or unenforceable in any respect by a court with appropriate jurisdiction, the validity of the remaining covenants, agreements, terms or provisions contained herein or in the Note or in any other Loan Documents shall be in no way affected, prejudiced or disturbed thereby.

**4.05 Modification.** This Deed of Trust, the Note, and all other Indebtedness are subject to modification. Neither this Deed of Trust, nor any term hereof, may be changed, waived, discharged or terminated orally or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge, or termination is sought.

**4.06 Governing Law. THIS DEED OF TRUST IS MADE BY THE BENEFICIARY AND ACCEPTED BY THE TRUSTOR IN THE STATE OF NEW YORK EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, PRIORITY, ENFORCEMENT AND FORECLOSURE OF THE LIENS AND SECURITY INTERESTS CREATED IN THE PROPERTY UNDER THE LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE WHERE THE PROPERTY IS LOCATED. TO THE FULLEST EXTENT PERMITTED BY THE LAW OF THE STATE WHERE THE PREMISES IS LOCATED, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE VALIDITY AND ENFORCEABILITY OF ALL LOAN DOCUMENTS, AND THE DEBT OR OBLIGATIONS ARISING HEREUNDER (BUT THE FOREGOING SHALL NOT BE CONSTRUED TO LIMIT BENEFICIARY'S RIGHTS WITH RESPECT TO SUCH SECURITY INTEREST CREATED IN THE STATE WHERE THE PROPERTY IS LOCATED).**

**4.07 Prejudgment Remedies. THE TRUSTOR HEREBY REPRESENTS, COVENANTS, AND AGREES THAT THE PROCEEDS OF THE LOAN SECURED BY THIS DEED OF TRUST, AND EVIDENCED BY THE LOAN AGREEMENT, AND THE NOTE SHALL BE USED FOR GENERAL COMMERCIAL PURPOSES AND THAT SUCH LOAN IS A "COMMERCIAL TRANSACTION" AS DEFINED BY THE STATUTES OF THE STATE OF NEW YORK. THE TRUSTOR HEREBY WAIVES SUCH RIGHTS AS IT MAY HAVE TO NOTICE AND/OR HEARING UNDER ANY APPLICABLE FEDERAL OR STATE LAWS INCLUDING, WITHOUT LIMITATION, NEW YORK GENERAL STATUTES, PERTAINING TO THE EXERCISE BY THE BENEFICIARY OF SUCH RIGHTS AS THE BENEFICIARY MAY HAVE INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK PREJUDGMENT REMEDIES AND/OR TO DEPRIVE THE TRUSTOR OF OR AFFECT THE USE OF OR POSSESSION OR ENJOYMENT OF THE TRUSTOR'S PROPERTY PRIOR TO THE RENDITION OF A FINAL JUDGMENT**

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**AGAINST THE TRUSTOR. THE TRUSTOR FURTHER WAIVES ANY RIGHT IT MAY HAVE TO REQUIRE THE BENEFICIARY TO PROVIDE A BOND OR OTHER SECURITY AS A PRECONDITION TO OR IN CONNECTION WITH ANY PREJUDGMENT REMEDY SOUGHT BY THE BENEFICIARY, AND WAIVES ANY OBJECTION TO THE ISSUANCE OF SUCH PREJUDGMENT REMEDY BASED ON ANY OFFSETS, CLAIMS, DEFENSES, OR COUNTERCLAIMS TO ANY ACTION BROUGHT BY THE BENEFICIARY. FURTHER, THE TRUSTOR HEREBY WAIVES, TO THE EXTENT PERMITTED BY LAW, THE BENEFITS OF ALL PRESENT AND FUTURE VALUATION, APPRAISAL, HOMESTEAD, EXEMPTION, STAY, REDEMPTION AND MORATORIUM LAWS.**

**4.08 Effects of Changes and Laws Regarding Taxation.** In the event of an enactment of any law deducting from the value of the Property any Deed of Trust lien thereon, or imposing upon the Beneficiary the payment of any or part of the Impositions, charges, or Assessments previously paid by the Trustor pursuant to this Deed of Trust, or change in the law relating to the taxation of Deed of Trusts, debts secured by Deed of Trusts or the Beneficiary's interest in the Property so as to impose new incidents of taxes on the Beneficiary, then the Trustor shall pay such Impositions or Assessments or shall reimburse the Beneficiary therefor; provided that, however, if in the opinion of counsel to the Beneficiary such payment cannot lawfully be made by the Trustor, then the Beneficiary may, at the Beneficiary's option, declare all of the sums secured by this Deed of Trust to be immediately due and payable without prior notice to the Trustor, and the Beneficiary may invoke any remedies permitted by applicable law.

**4.09 Purpose of Loan.** The Trustor represents and warrants that the proceeds from this Loan are to be used solely for business and commercial purposes and not at all for any personal, family, household, or other noncommercial or farming or agricultural purposes. The Trustor acknowledges that the Beneficiary has made this Loan to the Trustor in reliance upon the above representation. Said representation will survive the closing and repayment of the Loan. The Trustor acknowledges that the Federal and Utah Truth in Lending disclosures are not required for loans that are given solely for business and commercial purposes.

**4.10 Duplicate Originals.** This Deed of Trust may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original.

**4.11 Usury Laws.** This Deed of Trust, the Note, and the other Loan Documents are subject to the express condition that at no time shall the Trustor be obligated or required to pay interest on the debt at a rate which could subject the holder of the Note to either civil or criminal liability as a result of being in excess of the maximum interest rate permitted by applicable law. If, by the terms of this Deed of Trust, the Note, or any of the Loan Documents, the Trustor is at any time required or obligated to pay interest on the debt at a rate in excess of such maximum rate, the rate of interest under the same shall be deemed to be immediately reduced to such maximum rate and the interest payable shall be computed at such maximum rate and all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments in reduction of the principal balance of the Note.

**4.12 Construction.** This Deed of Trust and the Note shall be construed without regard to any presumption or other rule requiring construction against the party causing this Deed of Trust and the Note to be drafted.

**4.13 Release and Reconveyance.** If all of Trustor's obligations under the Loan Documents are paid in full in accordance with the terms of the Loan Documents and all amounts due under the Deed of Trust and accompanying loan documents are paid in full, no Default then exists hereunder and no Event of Default then exists under any other Loan Document, and if Trustor shall well and truly perform all of Trustor's

covenants contained herein, then this conveyance shall become null and void and be released, and the Premises shall be released to Trustor, at Trustor's request and expense.

**4.14 Entire Agreement.** This Deed of Trust, together with the other Loan Documents executed in connection herewith, constitutes the entire agreement and understanding among the parties relating to the subject matter hereof and supersedes all prior proposals, negotiations, agreements, and understandings relating to such subject matter. In entering into this Deed of Trust, Trustor acknowledges that it is not relying on any representation, warranty, covenant, promise, assurance, or other statement of any kind made by the Beneficiary or by any employee or agent of the Beneficiary.

**4.15 State Specific Provisions:**

**Foreclosure.** Trustee (or Beneficiary, as the case maybe) may institute an action to foreclose this Deed of Trust against the Property, or take such other action at law or in equity for the enforcement of this Deed of Trust and realization on the pledged collateral or any other security herein or elsewhere provided for, as the law may allow, and may proceed therein to final judgment and execution for the entire unpaid balance of the principal debt, with interest at the rate stipulated in the Note to the date of default, and thereafter at the Default Rate specified in the Note, together with all other sums due by Trustor in accordance with the provisions of the Note and this Deed of Trust, including all sums which may have been loaned by Trustee (or Beneficiary, as the case maybe) to Trustor after the date of this Deed of Trust, and all sums which may have been advanced by Trustee (or Beneficiary, as the case maybe) for taxes, water or sewer rents, charges or claims, payments on prior liens, completion of construction of improvements, insurance or repairs to the Property, all costs of suit, together with interest at such Default Rate on any judgment obtained by Trustee (or Beneficiary, as the case maybe) from and after the date of any foreclosure sale until actual payment is made as of the full amount due Trustor (or Beneficiary, as the case maybe) and reasonable attorneys' fees for collection, or Trustee (or Beneficiary, as the case maybe) may foreclose only as to the sum past due with interest and costs as above provided, without injury to this Deed of Trust or the displacement or impairment of the remainder of the lien thereof, and at such foreclosure sale the Property shall be sold subject to all remaining items of indebtedness; and Trustee (or Beneficiary, as the case maybe) may again foreclose, in the same manner, as often as there may be any sum past due. In the event Trustee (or Beneficiary, as the case maybe) forecloses this Deed of Trust against the Property, Trustee (or Beneficiary, as the case maybe) may, at its option and in its sole and absolute discretion, assume all rights (but not the obligation unless consented to by Trustee (or Beneficiary, as the case maybe)) as owner of the Property, and to assume all rights and privileges of Trustee (or Beneficiary, as the case maybe) thereunder; or

If the Indebtedness shall have become due and payable, whether by lapse of time or by acceleration, then and in every such case Trustor confer upon Trustee the authority and power to proceed to protect and enforce its rights by a suit or suits in equity or at law, either for the specific performance of any covenant or agreement contained herein or in the Loan Documents, or in aid of the execution of any power herein or therein granted, or for the foreclosure of this Deed of Trust by advertisement or action, or for the enforcement of any other appropriate legal or equitable remedy.

If Beneficiary requests the Trustee to invoke the STATUTORY POWER OF SALE, Trustee shall mail a copy of a notice of sale to Trustor, and to other persons prescribed by applicable law, in the manner provided by applicable law. Trustee shall publish the notice of sale, and the Property shall be sold in the manner prescribed by applicable law. Trustee or its designee may purchase the Property at any sale. The proceeds of the sale shall be applied in the following order: (a) to all expenses of the sale, including, but not

limited to, reasonable attorneys' fees; (b) to all sums secured by this Deed of Trust and (c) any excess to the person or persons legally entitled to it in accordance with the term terms of this Deed of Trust.

**Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under this Section 4.15 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If the power of sale is invoked, Trustee shall execute a written notice of the occurrence of an event of default and of the election to cause the Property to be sold and shall record such notice in each county in which any part of the Property is located. Lender or Trustee shall mail copies of such notice in the manner prescribed by Applicable Law to Borrower and to the other persons prescribed by Applicable Law. In the event Borrower does not cure the default within the period then prescribed by Applicable Law, Trustee shall give public notice of the sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines (but subject to any statutory right of Borrower to direct the order in which the Property, if consisting of several known lots or parcels, shall be sold). Trustee may in accordance with Applicable Law, postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it or to the county clerk of the county in which the sale took place.

**Reconveyance.** Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Lender may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.

**Substitute Trustee.** Lender, at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

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Commercial Deed Of Trust, Security Agreement, And Fixture Filing

**Request for Notices.** Borrower requests that copies of the notices of default and sale be sent to Borrower's address which is the Property Address.

**No Oral Agreement.** PURSUANT TO UTAH CODE ANN. § 25-5-4, TRUSTOR IS NOTIFIED THAT THE LOAN DOCUMENTS ARE A FINAL EXPRESSION OF THE AGREEMENT AMONG BENEFICIARY, TRUSTOR AND ALL OTHER PARTIES THERETO, AND THE LOAN DOCUMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED ORAL AGREEMENT.

NOW, THEREFORE, If the Note and any Indebtedness secured by this Deed of Trust shall be well and truly paid according to their tenor and if all the terms, covenants, conditions, and agreements of the Trustor contained herein and in the Note and Loan Documents, shall be fully and faithfully performed, observed, and complied with, then this Deed of Trust deed shall be void, but shall otherwise remain in full force and effect.

*[No further text on this page; signatures appear on the following page]*

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the November 18, 2019

Trustor:

WRE AVENUES, LLC

By: 

Name: Kyle David White

Title: Manager and Member

Witnessed by:

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

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

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

Name: Keith Edward White

Title: Manager and Member

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the November 18, 2019

**Trustor:**  
**WRE AVENUES, LLC**

Witnessed by:

By: \_\_\_\_\_  
Name: Kyle David White  
Title: Manager and Member

Name: \_\_\_\_\_  
*Deborah Smith*  
Name: \_\_\_\_\_  
*Michele M Dougherty*

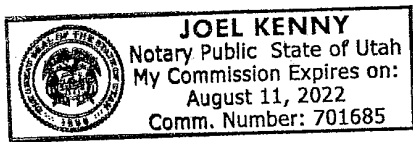
By: *Keith E White*  
Name: Keith Edward White  
Title: Manager and Member

STATE OF Utah )  
 ) ss.:  
COUNTY OF Salt Lake )

I certify that on November 18, 2019, Kyle David White, came before me in person and stated to my satisfaction that he/she:

(a) made the attached instrument; and

(b) was authorized to and did execute this instrument on behalf of and as Manager and Member of WRE AVENUES, LLC, (the "Company"), the entity named in this instrument, as the free act and deed of the Company, by virtue of the authority granted by operating agreement and members.



[Signature]  
NOTARY PUBLIC

STATE OF )  
 ) ss.:  
COUNTY OF )

I certify that on November \_\_, 2019, Keith Edward White, came before me in person and stated to my satisfaction that he/she:

(a) made the attached instrument; and

(b) was authorized to and did execute this instrument on behalf of and as Manager and Member of WRE AVENUES, LLC, (the "Company"), the entity named in this instrument, as the free act and deed of the Company, by virtue of the authority granted by operating agreement and members.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF )  
 ) ss.:  
COUNTY OF )

I certify that on November \_\_, 2019, Kyle David White, came before me in person and stated to my satisfaction that he/she:

(a) made the attached instrument; and

(b) was authorized to and did execute this instrument on behalf of and as Manager and Member of WRE AVENUES, LLC, (the "Company"), the entity named in this instrument, as the free act and deed of the Company, by virtue of the authority granted by operating agreement and members.

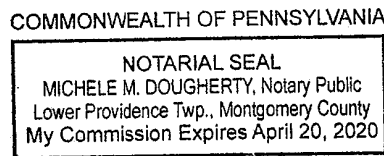
\_\_\_\_\_  
NOTARY PUBLIC

STATE OF *PA* )  
 ) ss.:  
COUNTY OF *Montgomery* )

I certify that on November *18<sup>th</sup>*, 2019, Keith Edward White, came before me in person and stated to my satisfaction that he/she:

(a) made the attached instrument; and

(b) was authorized to and did execute this instrument on behalf of and as Manager and Member of WRE AVENUES, LLC, (the "Company"), the entity named in this instrument, as the free act and deed of the Company, by virtue of the authority granted by operating agreement and members.



*Michele M. Dougherty*  
\_\_\_\_\_  
NOTARY PUBLIC



**SCHEDULE A**  
**PROPERTY DESCRIPTION**

Commencing 3 rods North from Southwest Corner of Lot 3, Block 62, Plat D Salt Lake City Survey; thence North 3.67 rods; thence East 10 rods; thence South 6.67 rods; thence West 45.3 feet; thence North 3 rods; thence West 119.7 feet to beginning.

Parcel No.: 09-31-438-005

Property address is commonly known as: 232 North H Street, Salt Lake City, Utah 84103

**SCHEDULE B**  
**PERMITTED ENCUMBRANCES**

As outlined on Schedule B of the Lenders title policy.