

NCS-CCR175-150

WHEN RECORDED, MAIL TO:

Honigman Miller Schwartz and Cohn LLP
 38500 Woodward Avenue, Suite 100
 Bloomfield Hills, Michigan 48304
 Attn: Richard J. Burstein, Esq.

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 3/21/2012 12:58:00 PM \$26.00
 Book - 10001 Pg - 1822-1829
 Gary W. Ott
 Recorder, Salt Lake County, UT
 FIRST AMERICAN NCS
 BY: eCASH, DEPUTY - EF 8 P.

SPECIAL WARRANTY DEED

[For an Estate of Years]

In consideration of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, CITY CREEK RESERVE, INC., a Utah nonprofit corporation ("**Grantor**"), whose address is Joseph Smith Memorial Building, 8th Floor, 15 East South Temple, Salt Lake City, Utah 84150, hereby conveys and warrants, against all claiming by, through or under Grantor, to CITY CREEK CENTER ASSOCIATES LLC, a Delaware limited liability company ("**Grantee**"), whose address is 200 East Long Lake Road, Bloomfield Hills, Michigan 48304-0200, an estate for years, for the Estate Term (defined hereinafter), in and to the following described real property located in Salt Lake County, Utah (the "**Property**"):

See Exhibit A attached hereto and incorporated herein by this reference;

TOGETHER with all easements, rights and hereditaments appurtenant thereto and all improvements located thereon; and

SUBJECT TO EACH OF THE FOLLOWING EXCEPTIONS (collectively, the "**Approved Exceptions**"):

(1) Current taxes and assessments, reservations, easements, covenants, conditions, restrictions, and other rights, interests and encumbrances of record;

(2) The continuing option and right of Grantor to re-acquire the Property from Grantee, its permitted successors and assigns, as set forth in that certain Fee Restaurant Conveyance Agreement dated March 21, 2012 (the "**Agreement**"). This right and option shall be referred to herein as the "**Option**," and shall have the same meaning as "**Option**" in the Agreement. Reference is made to the Agreement for the specific terms and provisions of the Option. If any inconsistency or ambiguity as to the Option exists between the terms and provisions of this Special Warranty Deed and the terms and provisions of the Agreement, the terms and provisions of the Agreement shall govern and control; and

(3) The continuing use restrictions, covenants and agreements set forth in that certain Amended and Restated Retail Center Airspace Lease dated as of December 4, 2008, between Grantor, as Landlord, and Grantee, as Tenant (the "**Airspace Lease**"), which restrictions, covenants and agreements shall apply to the Property in the same manner as they apply to the "Premises" (as defined in the Airspace Lease) under the terms of the Airspace

Lease. For purposes of clarification, such restrictions, covenants and agreements shall include without limitation (a) those specific use provisions set forth in Article 6 of the Airspace Lease, which are incorporated herein by this reference, (b) the continuing maintenance provisions set forth in Article 9 of the Airspace Lease, which are incorporated herein by this reference, and (c) the restrictions upon Transfers, Subleases and Leasehold Mortgages set forth in Articles 17, 18 and 20 of the Airspace Lease, which are incorporated herein by this reference (all of the foregoing use restrictions, covenants, agreements and restrictions, as the same are to be applied to the Property pursuant to the foregoing, being referred to herein as the "**Use/Maintenance/Transfer Covenants**"). Reference is made to the Airspace Lease for the specific terms and provisions of the Use/Maintenance/Transfer Covenants;

(4) The subordination, nondisturbance and attornment provisions set forth in Section 8 of the Agreement (the "**SNDA Provisions**"), which SDNA Provisions are incorporated herein by this reference. Reference is made to the Agreement for the specific terms and provisions of the SNDA Provisions. If any inconsistency or ambiguity as to the SNDA Provisions exists between the terms and provisions of this Special Warranty Deed and the terms and provisions of the Agreement, the terms and provisions of the Agreement shall govern and control;

(5) The additional exceptions described in Exhibit B attached hereto; and

(6) Any additional exceptions to title (including leases or subleases) caused by Grantee's acts or omissions or consented to or requested by Grantee (in accordance with the provisions of the Airspace Lease) prior to the date hereof.

NOTWITHSTANDING THE FOREGOING, THIS GRANT SHALL CONTINUE ONLY FOR SO LONG AS the Property is used by Grantee as part of the Retail Center under, and as defined in, the Airspace Lease. At such time as the Airspace Lease terminates or expires, without any regard whatsoever as to the reason for such termination or expiration, and thereby the Property is no longer being used as a part of the Retail Center under the Airspace Lease, then at that time, without any action or notice of any kind being required from Grantor to Grantee, fee title absolute to the Property shall automatically revert in full to Grantor (the "**Reverter**"). Upon the occurrence of the Reverter, (a) Grantor shall be entitled and authorized to unilaterally record a notice of the expiration or termination of the Airspace Lease and the occurrence of the Reverter, and (b) Grantee shall cause fee title to the Property to be conveyed to Grantor pursuant to the Reverter free and clear of any exceptions other than (i) the Approved Exceptions (except that the exceptions for the Option, the Reverter, the Use/Maintenance/Transfer Covenants and the Airspace Lease shall be deleted); (ii) such other title exceptions as may have been created or consented to by Grantor during the time Grantee owned the Property; and (iii) Subleases (as defined in the Airspace Lease) of the Property which, at the time entered into, complied with all requirements under the Airspace Lease applicable to subleasing of space within the Retail Center.

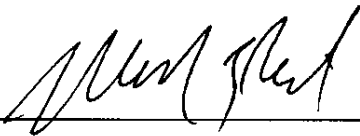
The "**Estate Term**" shall mean the period of time commencing on the date of this Special Warranty Deed and terminating on the last day of the Term (as defined in the Airspace Lease) of the Airspace Lease.

By executing this Special Warranty Deed, Grantee acknowledges and agrees that Grantee is taking title to the Property subject to the Option, the Reverter, and the Use/Maintenance/Transfer Covenants, and Grantee hereby agrees to perform all of the agreements and keep all of the covenants, and to own and use the Property in compliance with and subject to all of the restrictions, of the Option, the Reverter, and the Use/Maintenance/Transfer Covenants. By way of clarification, Grantee further agrees that (a) Grantee shall not transfer fee title to the Property to any third party unless such third party, concurrently therewith and in accordance with the Airspace Lease, also acquires the Leasehold Estate (as defined in the Airspace Lease) under the Airspace Lease, and (b) Grantee shall not encumber the Property in favor of a third party to secure an obligation unless such third party, concurrently therewith and in accordance with the Airspace Lease, also obtains a like encumbrance of the Leasehold Estate under the Airspace Lease in order to secure the same obligation.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Special Warranty Deed this 21 day of March, 2012.


GRANTOR:

CITY CREEK RESERVE, INC.,
a Utah nonprofit corporation

MSM By: 
Name: Mark B. Gibbons, President
Title: Mark B. Gibbons, President

GRANTEE:

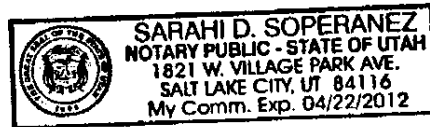
CITY CREEK CENTER ASSOCIATES LLC,
a Delaware limited liability company

By: 
Name: Chris B. Heaphy
Title: Authorized Signatory

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

On this 20th day of March, 2012, personally appeared before me Mark B. Gibbons, known or satisfactorily proved to me to be the President of City Creek Reserve, Inc., a Utah nonprofit corporation, who acknowledged to me that he signed the foregoing instrument as authorized signatory for said corporation.

Sarah D. Soperanez
Notary Public



STATE OF MICHIGAN)
 :SS
COUNTY OF OAKLAND)

On this 19th day of March, 2012, personally appeared before me Chris B. Heaphy, known or satisfactorily proved to me to be the Authorized Signatory of City Creek Center Associates LLC, a Delaware limited liability company, who acknowledged to me that he signed the foregoing instrument as Authorized Signatory for said company.

Teresa L. Dreer
Notary Public

TERESA L. DREER
Notary Public, Macomb County, MI
Acting in Oakland County, MI
My Commission Expires 05-15-2012

EXHIBIT A TO SPECIAL WARRANTY DEED

LEGAL DESCRIPTION

PARCEL 1:

BEGINNING AT A POINT ON THE NORTH RIGHT OF WAY LINE OF 100 SOUTH STREET SAID POINT BEING S89°58'06"W 264.29 FEET FROM THE SOUTHEAST CORNER OF BLOCK 75, PLAT "A", SALT LAKE CITY SURVEY, SECTION 6, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AT THE SALT LAKE CITY DATUM ELEVATION 4311.67 TO ELEVATION 4349.50 AND RUNNING THENCE S89°58'06"W ALONG SAID NORTH RIGHT OF WAY LINE 60.36 FEET; THENCE NORTH 77.08 FEET; THENCE N06°32'16"E 27.60 FEET; THENCE N13°04'32"E 2.67 FEET; THENCE N19°36'48"E 27.60 FEET; THENCE N25°58'32"E 1.85 FEET; THENCE N63°28'51"W 9.18 FEET; THENCE N27°19'41"E 3.67 FEET; THENCE N30°23'24"E 30.40 FEET; THENCE N49°42'48"E 30.40 FEET; THENCE N52°46'31"E 3.67 FEET; THENCE S36°24'57"E 6.34 FEET; THENCE N54°34'11"E 3.33 FEET; THENCE N58°45'18"E 17.14 FEET; THENCE N62°56'26"E 2.67 FEET; THENCE S24°52'53"E 2.59 FEET; THENCE EAST 11.57 FEET; THENCE SOUTH 16.53 FEET; THENCE S89°58'21"W 10.05 FEET; THENCE S00°09'54"W 152.87 FEET; THENCE WEST 13.72 FEET; THENCE SOUTH 25.18 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH ALL THAT VOLUME OF SPACE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH RIGHT OF WAY LINE OF 100 SOUTH STREET SAID POINT BEING S89°58'06"W 264.29 FEET FROM THE SOUTHEAST CORNER OF BLOCK 75, PLAT "A", SALT LAKE CITY SURVEY, SECTION 6, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AT THE SALT LAKE CITY DATUM ELEVATION 4311.00 TO ELEVATION 4311.67 AND RUNNING THENCE S89°58'06"W ALONG SAID NORTH RIGHT OF WAY LINE 60.36 FEET; THENCE NORTH 13.75 FEET; THENCE EAST 60.36 FEET; THENCE SOUTH 13.71 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE OUTDOOR SEATING PARCEL:

BEGINNING AT A POINT ON THE NORTH RIGHT OF WAY LINE OF 100 SOUTH STREET SAID POINT BEING S89°58'06"W 324.65 FEET FROM THE SOUTHEAST CORNER OF BLOCK 75, PLAT "A", SALT LAKE CITY SURVEY, SECTION 6, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AT THE SALT LAKE CITY DATUM ELEVATION 4312.60 TO ELEVATION 4349.50 AND RUNNING THENCE S89°58'06"W ALONG SAID NORTH RIGHT OF WAY LINE 11.38 FEET; THENCE NORTH 84.80 FEET; THENCE N06°36'12"E 24.90 FEET; THENCE N26°09'03"E 32.55 FEET; THENCE S63°28'51"E 8.92 FEET; THENCE S25°58'32"W 1.85 FEET; THENCE S19°36'48"W 27.60 FEET; THENCE S13°04'32"W 2.67 FEET; THENCE S06°32'16"W 27.60 FEET; THENCE SOUTH 77.08 FEET TO THE POINT OF BEGINNING.

AND

PARCEL 2:

EASEMENTS AND BENEFICIAL RIGHTS AS ESTABLISHED BY THAT CERTAIN AMENDED AND RESTATED MASTER DECLARATION, RECORDED JANUARY 8, 2010 AS ENTRY NO. 10875596, IN BOOK 9795 AT PAGE 4989 OF OFFICIAL RECORDS (SAID CITY CREEK CENTER AMENDED AND RESTATED MASTER DECLARATION OF EASEMENTS WAS RE-RECORDED JANUARY 12, 2010 AS ENTRY NO. 10877609, IN BOOK 9796 AT PAGE 4404 OF OFFICIAL RECORDS).

APN: 16-06-101-032-2008

EXHIBIT B TO SPECIAL WARRANTY DEED

PERMITTED EXCEPTIONS

1. Taxes for the year 2012 now a lien, not yet due.

2. Said property is included within the incorporated city limits of Salt Lake City, a municipal corporation of the State of Utah, and is subject to any special assessments for improvements or services, including but not limited to, Downtown Economic Development and Street Lighting, as may be therein provided.

3. Rights and easements contained in that certain Warranty Deed recorded May 1, 1975 as Entry No. 2704207 in Book 3848 at Page 51 and that certain Warranty Deed recorded November 3, 1975 as Entry No. 2756684 in Book 4015 at Page 54 of Official Records, and in that certain Warranty Deed recorded January 6, 1977 as Entry No. 2895420 in Book 4435 at Page 393 of Official Records.

Amendment to Easement Rights in Warranty Deeds recorded October 19, 2007 as Entry No. 10253972 in Book 9527 at Page 9788 of Official Records.

4. A Parking Ramp Easement Agreement by and between Salt Lake City Corporation, a Utah municipal corporation and City Creek Reserve Inc., a Utah non-profit corporation recorded May 29, 2009 as Entry No. 10716096 in Book 9729 at Page 5884 of Official Records.

5. A Parking Ramp Easement Agreement by and between Salt Lake City Corporation, a Utah municipal corporation and City Creek Reserve Inc., a Utah non-profit corporation recorded May 29, 2009 as Entry No. 10716097 in Book 9729 at Page 5895 of Official Records.

6. City Creek Center Amended and Restated Master Declaration of Easements recorded January 8, 2010 as Entry No. 10875596 in Book 9795 at Page 4989 of Official Records.

Said City Creek Center Amended and Restated Master Declaration of Easements was re-recorded January 12, 2010 as Entry No. 10877609 in Book 9796 at Page 4404 of Official Records.

7. An Easement Agreement by and between City Creek Reserve Inc., a Utah nonprofit corporation and AT&T Communications of the Mountain States, Inc., a Colorado corporation and Qwest Corporation, a Colorado corporation, successor by merger to The Mountain States Telephone and Telegraph Company, a Colorado corporation recorded August 17, 2010 as Entry No. 11012625 in Book 9850 at Page 486 of Official Records.

8. An Easement and License Agreement by and between City Creek Reserve Inc., a Utah nonprofit corporation and AT&T Communications of the Mountain States, Inc., a Colorado

corporation and Qwest Corporation, a Colorado corporation, successor by merger to The Mountain States Telephone and Telegraph Company, a Colorado corporation recorded August 17, 2010 as Entry No. 11012626 in Book 9850 at Page 513 of Official Records.

9. An Easement Agreement by and between City Creek Reserve Inc., a Utah nonprofit corporation and AT&T Communications of the Mountain States, Inc., a Colorado corporation and Qwest Corporation, a Colorado corporation, successor by merger to The Mountain States Telephone and Telegraph Company, a Colorado corporation recorded August 17, 2010 as Entry No. 11012627 in Book 9850 at Page 559 of Official Records.

10. A Memorandum of Lease by and between City Creek Center Associates LLC, a Delaware limited liability company and The Cheesecake Factory Restaurants, Inc., a California corporation recorded August 11, 2011 as Entry No. 11226301 in Book 9942 at Page 5451 of Official Records.