

12887716
11/16/2018 2:16:00 PM \$24.00
Book - 10731 Pg - 976-983
ADAM GARDINER
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 8 P.

This instrument was prepared by,
and after recordation should be returned to:

Greer, Herz & Adams, LLP
Attn: Darryl H. Levy
2525 South Shore Blvd., Suite 203
League City, Texas 77573

Assessor's Parcel No. 27-13-127-015
CTIA 106903-PME

ABSOLUTE ASSIGNMENT OF LEASES AND RENTS

This Absolute Assignment of Leases and Rents (this "Assignment") is executed effective as of November 15, 2018, by SOJO STATION SOUTH, LLC, a Utah limited liability company (hereinafter called "Assignor"), for the benefit of AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company (hereinafter called "Assignee").

FOR AND IN CONSIDERATION of the loan made to Assignor by Assignee as evidenced by that certain secured promissory note (together with all renewals, modifications, increases, extensions, consolidations and rearrangements, thereof, individually and collectively referred to as the "Note") of even date in the original principal sum of \$45,000,000.00 payable to the order of Assignee and executed by Assignor, which is described in and secured by that one certain Deed of Trust, Security Agreement and Financing Statement (together with all renewals, modifications, increases, extensions, consolidations and rearrangements, thereof, the "Deed of Trust"; the Note, the Deed of Trust and all other documents evidencing, securing or relating to the Note and the Deed of Trust are sometimes individually referred to as a "Loan Document" and collectively as the "Loan Documents") of even date executed by Assignor for the benefit of Assignee, covering the real property described in Exhibit "A" attached hereto and made a part hereof by reference for all purposes, which, together with any and all buildings, improvements, fixtures and equipment located thereon owned by Assignor and any and all easements and appurtenances thereto, is hereinafter referred to as the "Mortgaged Property", Assignor has GRANTED, TRANSFERRED and ASSIGNED, and by these presents does GRANT, TRANSFER and ASSIGN unto Assignee the following:

1. any and all leases, written or oral, and all agreements for use or occupancy of any portion of the Mortgaged Property, and any and all extensions and renewals of said leases and agreements and any and all further leases or agreements, including subleases thereunder, upon or covering use or occupancy of all or any part of the Mortgaged Property, all such leases, agreements, subleases and tenancies heretofore mentioned being hereinafter individually referred to as a "Lease" and collectively referred to as the "Leases" and such lessees, sublessees and tenants under any Lease being hereinafter individually referred to as a "Lessee";

2. any and all guaranties of the performance, payment and/or collection of any of the Leases (individually referred to as a "Guaranty" and collectively referred to as "Guaranties") by any guarantor, surety or other liable party thereunder (collectively referred to as a "Guarantor"); and

3. the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues and profits now due or which may become due, or to which Assignor may now or shall hereafter (including during the period of redemption, if any) become entitled or may demand or claim, arising or issuing from or out of the Leases or Guaranties or from or out of the Mortgaged Property, or any part thereof, including but not limited to minimum rents, additional rents, percentage rents, common area maintenance charges, parking charges, tax and insurance premium contributions, and liquidated damages following default, the premium payable by any Lessee under any Lease upon the exercise of any cancellation privilege provided for in any of the Leases, payments from any Guarantor and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Mortgaged Property, together with any and all rights and claims of any kind which Assignor may have against any Lessee or Guarantor in connection with the Leases or against any subtenants, occupants or users of the Mortgaged Property, all such monies, rights and claims in this paragraph described being hereinafter referred to as the "Rents".

To induce Assignee to lend the funds evidenced by the Note, Assignor hereby makes the following REPRESENTATIONS AND WARRANTIES, jointly and severally:

That Assignor has good title to the Leases, Guaranties and Rents hereby assigned and good right to assign the same, and that no other person, corporation or entity has any right, title or interest to the lessor's interest therein; that Assignor has duly and punctually performed all and singular the terms, covenants, conditions and warranties of the existing Leases on Assignor's part to be kept, observed and performed the failure of which would adversely affect Assignor; that Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Leases, Guaranties or the Rents, whether now due or hereafter to become due; that any of the Rents due for any period subsequent to the date hereof have not been collected more than one month in advance and that payment of any of the Rents has not otherwise been anticipated, waived, released, discounted, set off or otherwise discharged or compromised except in the ordinary course of business; that Assignor has not received any funds or deposits from any Lessee in excess of one (1) month's rent for which credit has not already been made on account of accrued rents; and that to Assignor's knowledge the lessee under

any existing Lease is not in default of any of the terms thereof except as otherwise previously disclosed in writing to Assignee.

Assignor further COVENANTS AND AGREES, jointly and severally:

1. to observe, perform and discharge all material obligations, covenants and warranties provided for under the terms of the Leases and Guaranties to be kept, observed and performed by Assignor, the failure of which would adversely affect Assignor, and to give prompt notice to Assignee in the event Assignor fails to observe, perform and discharge same;

2. [Intentionally omitted.]

3. to enforce or secure, in the name of the Assignee if Assignee should so request, the performance of each and every material obligation, term, covenant, condition and agreement to be performed the failure of which would adversely affect Assignor by (a) any Lessee under the terms of the Leases and (b) any Guarantor under the terms of the Guaranties;

4. to appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases, the Guaranties or the obligations, duties or liabilities of Assignor and any Lessee thereunder, and, upon request by Assignee, to do so in the name and on behalf of Assignee but at the expense of the Assignor, and to pay all costs and expenses of Assignee, including reasonable attorneys' fees, in any action or proceeding in which the Assignee may appear;

5. not to receive or collect any Rents from any present or future Lessee of the Mortgaged Property or any part thereof or from any Guarantor for a period of more than one (1) month in advance, or pledge, transfer, mortgage or otherwise encumber or assign future payments of the Rents;

6. not to waive, excuse, condone, discount, set off, compromise, or in any manner release or discharge any Guarantor or Lessee of the Mortgaged Property of and from any obligations, covenants, conditions and agreements by said Lessee or Guarantor to be kept, observed and performed, including the obligation to pay rent in the manner and at the place and time specified in any Lease except in the exercise of its commercially reasonable business discretion and only to the extent, if any, not prohibited by the Deed of Trust; provided that the consent of Assignee to any waiver, excuse, condoning, discounting, set off, compromise, or in any manner release or discharge of the Master Lease, as such term is defined in the Deed of Trust, or the Master Lease Guaranty, as such term is defined in the Deed of Trust, may be granted or withheld in Assignee's sole and absolute discretion;

7. not to enter into any new Lease and not to cancel, terminate or consent to any surrender of any Lease or any Guaranty, or to modify or in any way alter the terms of any Lease or any Guaranty, without, in each such instance, the prior written consent of Assignee, which consent

shall not be unreasonably withheld, conditioned or delayed except in the exercise of its commercially reasonable business discretion and only to the extent, if any, not prohibited by the Deed of Trust; provided that the consent of Assignee to any cancellation, termination, consent to surrender, modification or alteration of the Master Lease or the Master Lease Guaranty may be granted or withheld in Assignee's sole and absolute discretion;

8. if requested by Assignor, to notify each Lessee, Guarantor and occupant of the Mortgaged Property under a Lease in writing of the rights granted to Assignee hereunder, and, immediately upon receipt of demand from Assignee, to direct, in writing, each Lessee, Guarantor and occupant of the Mortgaged Property under a Lease to pay all Rents then due or to become due from such Lessee, Guarantor; and/or occupant directly to Assignee upon such Lessee's, Guarantor's or occupant's receipt of written notice from Assignee of Assignee's exercise of Assignee's rights under this Assignment;

9. to provide Assignee with copies of all notices, complaints, demands and petitions regarding (a) any actual, potential or alleged default on the part of the landlord or the tenant under all Leases or (b) any Hazardous Materials, as such term is defined in the Deed of Trust, sent or received by Assignor immediately upon Assignor's sending same or within five (5) days of Assignor's receipt of same, as applicable; and

10. to promptly remit to Assignee any and all Rents received by Assignor after Assignor's receipt from Assignee of termination of Assignor's license to collect Rents granted herein.

So long as no Event of Default (as defined under any Loan Document) shall have occurred, Assignor shall have the right under a license granted hereby (but limited as provided in the following paragraphs) to collect, receive, retain, use and disburse, but not prior to accrual, all of the Rents arising from or out of the Leases or the Mortgaged Property.

Upon the occurrence of an Event of Default, Assignee, at its option, but in all cases subject to compliance with applicable law, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies: (a) to terminate the license hereby granted to Assignor to collect the Rents as aforesaid, and, without taking possession of the Mortgaged Property, to, in Assignee's own name, demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and, after deducting all necessary and reasonable costs and expenses of collection, including reasonable attorney's fees, to apply the net proceeds thereof, together with any funds of Assignor deposited with Assignee, upon any indebtedness secured hereby or obligation provided for in any of the Loan Documents and in such order as Assignee may determine; (b) to declare all sums secured hereby immediately due and payable and, at Assignee's option, to exercise all of the rights and remedies provided for in the Loan Documents or under the terms hereof; and (c) without any action or proceeding, through any person or by agent, or by the trustee(s) or successor trustee under the Deed of Trust, or by a receiver to be appointed by a court, to

enter upon, take possession of, manage and operate the Mortgaged Property or any part thereof, and irrespective of Assignor's possession of the Mortgaged Property, to make, modify, enforce, cancel or accept surrender of any of the Leases and Guaranties, to remove and evict any Lessee or other occupant (to the extent permitted by applicable law and the terms of the applicable Lease), to increase or reduce rents, to decorate, clean and make repairs, and to otherwise do any act or incur any cost or expenses Assignee shall deem proper to protect the Leases, Guaranties and the Mortgaged Property, as fully and to the same extent as Assignor could do if in possession, and in such event to apply any funds so collected to the operation and management of the Mortgaged Property, but in such order as Assignee shall deem proper, and including payment of reasonable management, brokerage and attorney's fees, and then, to the extent funds are available and to the extent deemed appropriate by Assignee, to the maintenance, without interest thereon, of a reserve for replacement of items on the Mortgaged Property, and then, if any of such funds remain, to the payment of any outstanding indebtedness evidencing, securing or relating to the terms of the Loan Documents.

The exercise by Assignee of any of the rights and remedies described above, including collection of the Rents and application thereof as aforesaid and/or the entry upon and taking possession of the Mortgaged Property, shall not cure or waive any Event of Default or waive, modify or affect any notice of default under the Loan Documents or hereunder, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by Assignee, once exercised, shall continue for so long as Assignee shall elect, notwithstanding that the collection and application as aforesaid of the Rents may have cured the original Event of Default. If Assignee shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time and from time to time following any subsequent Event of Default.

Notwithstanding the aforesaid license of Assignor to collect the Rents accruing under the Leases prior to an Event of Default, Assignee shall at all times be the creditor of each Lessee under the Leases and Guaranties in respect of assignments for the benefit of creditors, bankruptcy, reorganization, rearrangement, insolvency, dissolution, or receivership proceedings, with Assignee having the option to apply any monies received by the Assignee as such creditor to reduction of the principal or interest or other indebtedness evidencing, securing or relating to the Loan Documents.

This Assignment shall remain in effect as long as any part of the indebtedness evidencing, securing or relating to the Loan Documents remains unpaid, and upon payment in full of said indebtedness, Assignee shall execute a release of this Assignment upon request of Assignor and at the expense of Assignor.

If an Event of Default shall have occurred, and if there is any law requiring Assignee to take actual possession of the Mortgaged Property (or some action equivalent thereto, such as securing the appointment of a receiver) in order for Assignee to "perfect" or "activate" its rights and remedies as set forth herein, then to the maximum extent permitted by law Assignor waives the benefits of such law and agrees that such law shall be satisfied solely by: (1) Assignee sending Assignor written

notice that Assignee intends to enforce, and is enforcing, its rights in and to the Mortgaged Property and the rents, revenues, profits, and other items assigned herein; and (2) Assignee sending written notice to any or all tenants on the Mortgaged Property that said tenants should commence making payments under the Leases directly to Assignee or its designee.

In case any one or more of the provisions contained in this Assignment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Assignment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

This Assignment shall be interpreted, construed and enforced in accordance with the internal laws of the State of Utah, without regard to its internal laws with respect to conflict of laws.

This Assignment shall run with the land and shall inure to the benefit of and bind all parties hereto and their respective successors and assigns.

This Assignment may be executed in multiple counterparts, each of which shall be an original instrument and which, taken together, constitutes one and the same agreement.


[THE REMAINDER OF THIS PAGE INTENTIONALLY RESERVED]

The undersigned has caused this Absolute Assignment of Leases and Rents to be executed as of the date set forth in the acknowledgement below, and to be effective as of the date set forth above.

ASSIGNOR:

SOJO STATION SOUTH, LLC,
a Utah limited liability company

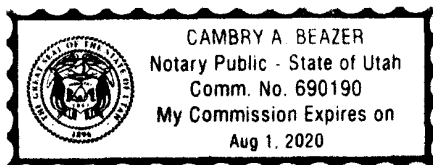
By: SoJo Station, LLC,
a Utah limited liability company
Title: Manager

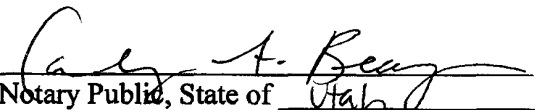
By: 
Name: Nathan W. Ricks
Title: Manager

STATE OF UTAH §
§
COUNTY OF Utah §

Before me, the undersigned authority, a Notary Public, on this day personally appeared NATHAN W. RICKS, as Manager of SoJo Station, LLC, a Utah limited liability company, the Manager of SOJO STATION SOUTH, LLC, a Utah limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed, and as the act of said limited liability company.

Given under my hand and notarial seal this 5th day of November, 2018.




Notary Public, State of Utah

Signature/Notary Page(s) to Absolute Assignment of Leases and Rents

EXHIBIT "A"

MORTGAGED PROPERTY

PARCEL 1:

Lot 3, SOJO SUBDIVISION PHASE 2, according to the official plat thereof as recorded in the office of the Salt Lake County Recorder on March 31, 2017 as Entry No. 12506703 in Book 2017P at Page 68.

PARCEL 1A:

Non-exclusive easements as disclosed in that certain Easement recorded December 30, 2008 as Entry No. 10588911 in Book 9669 at Page 5816, and as amended in that certain Amendment to Easement recorded March 19, 2018 as Entry No. 12736965 in Book 10656 at Page 9382.

PARCEL 1B:

Non-exclusive easements as disclosed in that certain Declaration of Joint and Reciprocal Easement dated December 17, 1997 and recorded December 22, 1997 as Entry No. 6820710 in Book 7837 at Page 328.

PARCEL 1C:

A non-exclusive easement for access purposes, appurtenant to Parcel 1 as established by that certain Access Easement Agreement dated March 31, 2017 and recorded March 31, 2017 as Entry No. 12507515 in Book 10543 at Page 8897.

PARCEL 1D:

Non-exclusive easements as disclosed in that certain Protective Covenants, Conditions, Restrictions and Easements South Jordan Station Transit-Oriented Development dated June 14, 2016 and recorded June 15, 2016 as Entry No. 12300849 in Book 10442 at Page 2682, and as amended in that certain First Amendment to Protective Covenants, Conditions, Restrictions and Easements South Jordan Station Transit-Oriented Development dated March 31, 2017 and recorded April 24, 2017 as Entry No. 12520750 in Book 10550 at Page 2972.

Tax Id No.: 27-13-127-015