

14284372 B: 11516 P: 567 Total Pages: 13  
09/04/2024 04:54 PM By: Jattermann Fees: \$40.00  
Rashelle Hobbs, Recorder, Salt Lake County, Utah  
Return To: FNT UTAH DOWNTOWN SLC - 170 MAIN ST STE 1075 UT 8  
170 MAIN ST STE 1075 SALT LAKE CITY, UT 84101

PREPARED BY AND UPON  
RECORDATION RETURN TO:

Fried, Frank, Harris, Shriver & Jacobson  
LLP  
One New York Plaza  
New York, New York 10004  
Attention: Michael Vines, Esq.

Tax ID Numbers:  
26-10-276-006 (Parcel 1)  
26-10-276-007 (Parcel 2)  
26-10-276-008 (Parcel 3)  
26-10-276-005 (Parcel 4)

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

EACH OF THE ENTITIES SET FORTH ON SCHEDULE I ATTACHED HERETO,  
each a Delaware limited liability company, as trustor  
(Trustor)

for the benefit of

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, a national banking association chartered  
under the laws of the United States of America, as administrative agent for the benefit of the Lenders  
from time to time party to the Loan Agreement defined herein, as beneficiary  
(Administrative Agent)

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**FIRST AMENDMENT TO DEED OF TRUST, SECURITY AGREEMENT,  
ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING**

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Dated: As of August 23, 2024  
Location: 6377, 6381, 6477 and 6593 West Wells Park  
Road and 6524 West Old Bingham Highway  
West Jordan, Utah 84081  
County: Salt Lake

**THIS FIRST AMENDMENT TO DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING** (this "**Amendment**") is made as of the 23<sup>rd</sup> day of August, 2024, by and among **EACH OF THE ENTITIES SET FORTH ON SCHEDULE I ATTACHED HERETO**, each a Delaware limited liability company, each having an address at 6477 West Wells Park Road, West Jordan, Utah 84081 (individually and/or collectively, as the context may require, jointly and severally, "**Trustor**"), as trustor, and **JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**, a national banking association chartered under the laws of the United States of America, having an address at 383 Madison Avenue, New York, New York 10179, in its capacity as administrative agent for the benefit of Lenders (together with its successors and assigns in such capacity, the "**Administrative Agent**").

### RECITALS

A. As of May 8, 2024 (the "**Closing Date**"), Lenders made a loan to Trustor and certain other borrowers party thereto (together with Trustor, individually and/or collectively, as the context may require, jointly and severally, "**Borrower**") in the maximum aggregate principal amount of up to TWO HUNDRED MILLION AND 00/100 DOLLARS (\$200,000,000.00) (the "**Original Loan**") and such Loan is (i) evidenced by, among other things, (a) that certain Loan and Security Agreement, dated as of the Closing Date (as amended by that certain First Amendment to Loan and Security Agreement and Omnibus Amendment to Loan Documents, dated as of the date hereof (the "**First Amendment**"), as the same may be further amended, renewed, modified, extended, replaced or supplemented from time to time, collectively, the "**Loan Agreement**"), (b) that certain Promissory Note, dated as of the Closing Date, in the maximum principal amount of up to Two Hundred Million and 00/100 Dollars (\$200,000,000) (as amended and restated by that certain Consolidated, Amended and Restated Promissory Note, dated as of the date hereof in the maximum principal amount of up to \$400,000,000, the "**Amended Note**", as the same may be further amended, renewed, modified, extended, replaced or supplemented from time to time, collectively, the "**Note**") and (ii) secured by, in part, that certain Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing, dated as of the Closing Date from Trustor, as trustor, to **FIDELITY NATIONAL TITLE INSURANCE COMPANY**, as trustee, for the benefit of Administrative Agent, as beneficiary, and recorded in the official records of the Salt Lake County, Utah Recorder's Office on May 20, 2024 as Document No. 14242661 (together with any and all extensions, renewals, substitutions, replacements, amendments, modifications and/or restatements thereof, collectively, the "**Security Instrument**"; the Loan Agreement, the Note, the Security Instrument and all other documents evidencing or securing the Debt or delivered in connection with the making of, or amendment of, the Loan are hereinafter referred to collectively as the "**Loan Documents**") which such Security Instrument encumbers the real property more particularly described on **Exhibit A** attached hereto (the "**Property**").

B. Pursuant to the First Amendment, the Original Loan has been modified such that it is in the maximum principal amount of up to \$400,000,000.00 (the Original Loan, as so modified, the "**Loan**").

C. With reference to the Security Instrument, Trustor and Administrative Agent desire to enter into this Amendment to (i) increase the maximum principal sum that is partially secured by

the Security Instrument from \$200,000,000 to \$400,000,000, and (ii) confirm that the Loan shall be secured by the Security Instrument as amended by this Amendment (as the same may be further amended, restated, replaced, supplemented or otherwise modified from time to time).

## **AGREEMENT**

All capitalized terms not defined herein shall have the meaning set forth in the Security Instrument. For the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

### **Article 1 Modifications and Acknowledgement.**

(a) All references in the Security Instrument to “the maximum principal amount of up to \$200,000,000” shall be replaced with “the maximum principal amount of up to \$400,000,000”.

(b) Trustor hereby acknowledges and agrees that the Loan Agreement has been amended by the First Amendment, and that any reference in the Security Instrument to the Loan Agreement shall be read to include the Loan Agreement as amended by the First Amendment. The definitions of, and all references to, “Security Instrument” and “Loan Documents” as set forth in the Loan Documents shall, in each case, be deemed to include this Amendment.

**Article 2 Lien of Security Instrument.** Nothing contained in this Amendment shall be construed to impair the lien of the Security Instrument, or the priority thereof existing prior to the recordation hereof, and nothing contained herein shall affect or impair any right, power or remedy granted to Secured Party under any of the Loan Documents or be considered to be a waiver of any such right, power or remedy. Trustor and Administrative Agent each recognize, acknowledge and agree that the lien of the Security Instrument, and the priority thereof, as security for the Loan and the Note, shall continue unimpaired notwithstanding the execution and delivery of this Amendment. Trustor covenants and agrees that the Security Instrument, as amended hereby, constitutes a valid and enforceable continuing first priority lien on and security interest in the fee simple interest of Trustor in the Property.

**Article 3 Recordation.** Trustor shall, at Trustor’s cost and expense, promptly cause this Amendment to be filed, registered, or recorded in such manner and in such places as may be required by law in order to publish notice of and to fully protect the lien of the Security Instrument upon, and the interest of Administrative Agent in, the Property.

**Article 4 No Offsets, Counterclaims/Due Authority.** Trustor represents and warrants that there are no offsets, counterclaims or defenses against the Debt (as defined in the Loan Agreement), this Amendment, the Security Instrument, the Loan Agreement, the Note, or the other Loan Documents, and that Trustor (and the undersigned representative of Trustor, if any) has full power, authority, and legal right to execute this Amendment and to keep and observe all of the terms of this Amendment on Trustor’s part to be observed or performed.

**Article 5 Mortgage and/or Intangible Tax.** Trustor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties (as defined in the Loan Agreement) from and against any and all Losses (as defined in the Loan Agreement) imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Amendment or any of the other Loan Documents, but excluding any income, franchise or other similar taxes. The provisions of Section 7.1 of the Loan Agreement and Section 8.2 of the Security Instrument are hereby incorporated by reference into this Amendment to the same extent and with the same force as if fully set forth herein.

**Article 6 Modifications, Waivers, Entire Agreement.** No modification, amendment, extension, discharge, diminishment, satisfaction, termination or waiver of any provision of this Amendment, or of any of the other Loan Documents, nor consent to any departure by Trustor and/or Guarantor therefrom, shall in any event be effective unless the same shall be in a writing signed by the party against which enforcement is sought, and then such waiver or consent shall be effective only in the specific instance, and for the purpose, for which given. Except as otherwise expressly provided herein, no notice to, or demand on Trustor and/or Guarantor shall entitle Trustor or Guarantor to any other or future notice or demand in the same, similar or other circumstances. This Amendment, the Security Instrument (as modified hereby), the Guarantees and the other Loan Documents contain the entire agreement between the parties hereto and thereto in respect of the transactions contemplated hereby and thereby, and all prior or contemporaneous agreements, understandings, representations, and statements, among or between such parties, whether oral or written, are superseded by the terms of this Amendment, the Security Instrument (as modified hereby), the Guarantees and the other Loan Documents.

**Article 7 No Novation.** THE PARTIES DO NOT INTEND THIS AMENDMENT NOR THE TRANSACTIONS CONTEMPLATED HEREBY TO BE, AND THIS AMENDMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL NOT BE CONSTRUED TO BE, A NOVATION OF ANY OF THE OBLIGATIONS OWING BY THE TRUSTOR UNDER OR IN CONNECTION WITH THE LOAN DOCUMENTS. FURTHER, THE PARTIES DO NOT INTEND THIS AMENDMENT NOR THE TRANSACTIONS CONTEMPLATED HEREBY TO AFFECT THE PRIORITY OF ANY OF ADMINISTRATIVE AGENT'S LIENS IN ANY OF THE COLLATERAL SECURING THE NOTE IN ANY WAY, INCLUDING, WITHOUT LIMITATION, THE LIENS, SECURITY INTERESTS AND ENCUMBRANCES CREATED BY THE SECURITY INSTRUMENT AS AMENDED HEREBY AND THE OTHER LOAN DOCUMENTS.

**Article 8 Ratification.** The warranties, representations, covenants and agreements contained in the Security Instrument, as herein expressly amended, are hereby specifically reaffirmed and remade by Trustor and the entire Security Instrument, as herein expressly amended, is hereby ratified, approved and confirmed in every respect. Trustor also hereby ratifies and confirms, as of the date hereof, the liens, encumbrances and security interests in and on the Property intended to be created by the Security Instrument, as amended hereby.

**Article 9 No Release.** The Obligations secured by the Security Instrument (as modified hereby) are continuing obligations of Trustor and nothing contained herein shall be deemed to release, terminate or subordinate any lien, security interest or assignment created or

evidenced by the Security Instrument and all such liens, security interests and assignments and the priority thereof shall relate back to the date that the Security Instrument was filed as referenced above. Trustor and Administrative Agent intend that this Amendment shall in no way affect the priority of the Security Instrument.

**Article 10 Costs and Expenses.** Trustor shall pay, on demand, all reasonable, out-of-pocket costs and expenses of Administrative Agent (including reasonable attorney's fees and expenses) incurred in connection with the preparation, execution and delivery of this Amendment.

**Article 11 Conflicts.** Except as expressly modified pursuant to this Amendment or the Loan Agreement, all of the terms, covenants, and provisions of the Security Instrument and the other Loan Documents shall continue in full force and effect. In the event of any conflict or ambiguity between the terms, covenants, and provisions of this Amendment and those of the Security Instrument, the terms, covenants, and provisions of this Amendment shall control.

**Article 12 Governing Law.** This Amendment shall be governed by and construed in accordance with the choice of law provisions set forth in Section 12.1(a) of the Security Instrument.

**Article 13 Successors and Assigns.** This Amendment shall be binding upon each party hereto and such party's successors and assigns and shall inure to the benefit of each party hereto and such party's successors and permitted assigns. Notwithstanding the foregoing, Trustor may not assign, transfer or set over to another, in whole or in part, all or any part of its benefits, rights, duties and obligations hereunder, including, but not limited to, performance of and compliance with conditions hereof, and any attempted assignment, transfer or set-over shall be null and void.

**Article 14 Counterparts.** This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. An electronically-transmitted copy of an executed counterpart of this Amendment shall be deemed an original. The failure of any party hereto to execute this Amendment, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

**Article 15 Severability.** The provisions hereof are intended to be severable. Any provisions hereof, or the application thereof to any Person or circumstance, which, for any reason, in whole or in part, is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof (or the remaining portions of such provision) or the application thereof to any other Person or circumstance, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision (or portion thereof) or the application thereof to any Person or circumstance in any other jurisdiction.

**Article 16 Headings.** The section headings in this Amendment are included herein for convenience of reference only and shall not constitute a part of this Amendment for any other purpose.

**Article 17 Exculpation.** The provisions of Article XVIII of the Loan Agreement are hereby incorporated by reference into this Amendment to the same extent and with the same force as if fully set forth herein.


**Article 18 Joint and Several Obligations.** If Trustor consists of more than one Person, the obligations and liabilities of each such Person hereunder shall be joint and several. If Guarantor consists of more than one Person, the obligations and liabilities of each such Person hereunder shall be joint and several.

**[NO FURTHER TEXT ON THIS PAGE]**

IN WITNESS WHEREOF, this Amendment has been executed by Trustor and Administrative Agent as of the day and year first above written.

**TRUSTOR:**

**NOVVA SLC NORTH, LLC,**  
a Delaware limited liability company

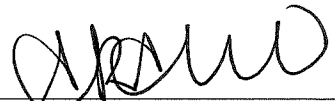
By:   
Name: Cory Argyle  
Title: Chief Financial Officer

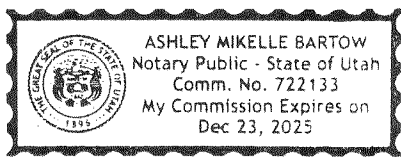
**ACKNOWLEDGMENT**

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

On this 19 day of August, 2024, personally appeared before me Cory Argyle, who being by me duly sworn (or affirmed), did say that he is the Chief Financial Officer of **NOVVA SLC NORTH, LLC**, and that said instrument was signed on behalf of said limited liability company by authority of its limited liability company agreement (or of a resolution of its board of directors, as the case may be) and said Chief Financial Officer acknowledged to me that said limited liability company executed the same.

SEAL

  
(Signature)  
My commission expires: 12/23/2025



*AKB*

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

**NOVVA SLC EAST, LLC,**  
a Delaware limited liability company

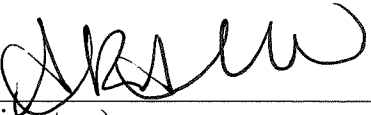
By:   
Name: Cory Argyle  
Title: Chief Financial Officer

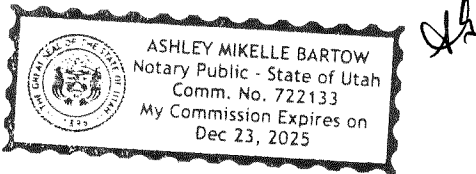
**ACKNOWLEDGMENT**

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

On this 19 day of August, 2024, personally appeared before me Cory Argyle, who being by me duly sworn (or affirmed), did say that he is the Chief Financial Officer of **NOVVA SLC EAST, LLC**, and that said instrument was signed on behalf of said limited liability company by authority of its limited liability company agreement (or of a resolution of its board of directors, as the case may be) and said Chief Financial Officer acknowledged to me that said limited liability company executed the same.

SEAL

  
(Signature)  
My commission expires: 12/23/2025




[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]





**ADMINISTRATIVE AGENT:**

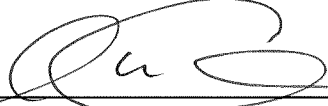
**JPMORGAN CHASE BANK, NATIONAL ASSOCIATION**, a national banking association chartered under the laws of the United States of America, as Administrative Agent

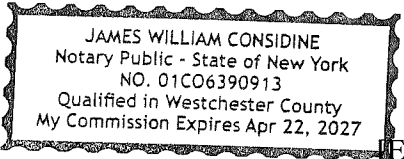
By:   
Name: Simon B. Burce  
Title: Executive Director

**ACKNOWLEDGMENT**

STATE OF NEW YORK    )  
  ) ss.:  
COUNTY OF NEW YORK )

On the 15 day of August, 2024, before me, the undersigned, personally appeared Simon B. Burce, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public



[END OF SIGNATURES]

**EXHIBIT A**

**LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN WEST JORDAN, IN THE COUNTY OF SALT LAKE, STATE OF UTAH, AND IS DESCRIBED AS FOLLOWS:

**PARCEL 1:**

Lot 1, Novva Data Centers Subdivision, Amending Lot 1, Vast Data Centers Subdivision, according to the official plat thereof, recorded March 14, 2024 as Entry 14216122 in Book 2024P at Page 060, in the office of the Salt Lake County Recorder.

Less and excepting that portion of the property conveyed to the City of West Jordan by Quit Claim Deed recorded as Entry No. 14216123 in Book 11477 at Page 7506.

**PARCEL 1A:**

Non-exclusive, perpetual Waterline Easements, as set forth in that certain Amended and Restated Declaration of Water Easements, recorded February 28, 2024, as Entry No. 14209877, in Book 11474 at Page 5911 of the Salt Lake County Official Records.

**PARCEL 2:**

Lot 2, Novva Data Centers Subdivision, Amending Lot 1, Vast Data Centers Subdivision, according to the official plat thereof recorded March 14, 2024 as Entry 14216122 in Book 2024P at Page 060, on file and of record in the office of the Salt Lake County Recorder.

Less and excepting that portion of the property conveyed to the City of West Jordan by Quit Claim Deed recorded as Entry No. 14216123 in Book 11477 at Page 7506.

**PARCEL 2A:**

Non-exclusive, perpetual Waterline Easements, as set forth in that certain Amended and Restated Declaration of Water Easements, recorded February 28, 2024, as Entry No. 14209877, in Book 11474 at Page 5911 of the Salt Lake County Official Records.

**PARCEL 3:**

Lot 3, Novva Data Centers Subdivision, Amending Lot 1, Vast Data Centers Subdivision, according to the official plat thereof recorded March 14, 2024 as Entry 14216122 in Book 2024P at Page 060, on file and of record in the office of the Salt Lake County Recorder.

**PARCEL 4:**

Parcel A, Vast Data Centers Subdivision, Amending Parcel 2, RWK Subdivision Amended, according to the official plat thereof recorded January 7, 2021 as Entry 13525332 in Book 2021P at Page 007, on file and of record in the office of the Salt Lake County Recorder.

Less and excepting therefrom any portion lying within the bounds of the 111 Commerce Center Subdivision, according to the official plat thereof recorded July 29, 2022, as Entry No. 13992383 in Book 2022P at Page 178, on file and of record in the office of the Salt Lake County Recorder.

**PARCEL 4A:**

A non-exclusive, perpetual Sewer Easement, as set forth in that certain Declaration of Sewer Easements, recorded February 2, 2024, as Entry No. 14200939, in Book 11469 at Page 8500 of the Salt Lake County Official Records.

PARCEL 4B:

Non-exclusive, perpetual Waterline Easements, as set forth in that certain Amended and Restated Declaration of Water Easements, recorded February 28, 2024, as Entry No. 14209877, in Book 11474 at Page 5911 of the Salt Lake County Official Records.

PARCEL 4C:

A non-exclusive, perpetual Water Easement, as set forth in that certain Declaration of Water Easement, recorded March 29, 2024, as Entry No. 14222034, in Book 11481 at Page 1472 of the Salt Lake County Official Records.

PARCEL 4D:

A non-exclusive, perpetual Sewer Easement, as set forth in that certain Declaration of Sewer Easements, recorded March 29, 2024, as Entry No. 14222035, in Book 11481 at Page 1480 of the Salt Lake County Official Records.

PARCEL 5:

A non-exclusive, perpetual easement for access as set forth in that certain Declaration of Easements recorded February 2, 2024 as Entry No. 14200940 in Book 11469 at Page 8507 of the Salt Lake County Official Records.

Shown for informational purposes only, Parcel Numbers: **26-10-276-005, 26-10-276-006-0000, 26-10-276-007, 26-10-276-008-0000**

**SCHEDULE I**

**BORROWER**

1. Novva SLC North, LLC, as to Parcel 1
2. Novva SLC East, LLC, as to Parcel 2
3. Novva SLC Common, LLC, as to Parcels 3 and 4