

WHEN RECORDED, RETURN TO:
Wildcat Lending Fund Two, LP
4800 Dexter Dr.
Plano, Texas 75093

14312576 B: 11531 P: 8840 Total Pages: 7
11/12/2024 03:45 PM By: asteffensen Fees: \$40.00
Rashelle Hobbs, Recorder, Salt Lake County, Utah
Return To: GT TITLE SERVICES
1250 E. 200 S., SUITE 3DLEHI, UT 84043

Tax Parcel No.: 16-27-204-012

ASSIGNMENT OF RENTS AND LEASES

This **ASSIGNMENT OF RENTS AND LEASES** (this “Assignment”) is dated as of this the **7th day of November, 2024** from **Pono Vista Investments, LLC, a Utah limited liability company** (“Assignor”).

WITNESSETH:

WHEREAS, the Assignor is the owner in fee simple of that certain real property and improvements located in Salt Lake County, Utah, and more particularly described in Exhibit “A” attached hereto (said land, together with all rights and appurtenances thereto, and all improvements presently located on or hereafter constructed thereon, if any, being hereinafter collectively called the “Property”); and

WHEREAS, Assignor has executed and delivered to Assignee a certain “Real Estate Note” (the “Note”), in the original principal amount of **\$495,000.00**, of even date herewith, payable to the order of **Wildcat Lending Fund Two, LP** (“Assignee”), together with a certain “Deed of Trust” (the “Deed of Trust”), of even date herewith, conveying the Property to Griffiths & Turner/GT Title Services Inc, Trustee, for the benefit of Assignee as security for payment of the Note (the indebtedness evidenced by the Note, Deed of Trust, and any and all other documents relating to, and executed in connection with, or securing payment of, said indebtedness, is hereinafter referred to as the “Loan”); and

WHEREAS, in order to induce Assignee to make the Loan to Assignor, and to better secure the Loan, Assignor desires to assign to Assignee all present and future leases demising all or any part of the Property, including, but not limited to, billboard leases, and all management agreements relating thereto (hereinafter called a “Lease” or the “Leases”), and rentals and other monies due and to become due to Assignor under the Leases, and Assignee desires to accept same.

NOW, THEREFORE, in consideration of the above premises, Ten Dollars and No Cents (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are

hereby acknowledged and confessed by Assignor, Assignor hereby covenants and agrees with Assignee as follows:

1. Assignor hereby sells, assigns, transfers and sets over unto Assignee, and Assignee's successors or assigns (a) the Leases, together with any extensions or renewals thereof and any guaranties of or other security for any tenant's obligations thereunder; and (b) all of the rents, income, receipts, revenues, insurance proceeds, judgments, issues and profits now due or which may hereafter become due under the Leases or any extensions or renewals thereof, as well as all monies due and to become due to Assignor under the Leases for services, materials or installations supplied, whether or not the same were supplied under the terms of the Leases (such rents, income, receipts, revenues, issues, profits and other monies assigned thereby being hereinafter called the "Rents"), together with any and all rights and remedies which Assignor may have against any tenant under any of the Leases or others in possession of the Property or any part thereof for the collection or recovery of monies so assigned, TO HAVE AND TO HOLD the same unto Assignee, and Assignee's successors or assigns.

2. This Assignment is made to secure (a) payment of the Loan and all interest and principal from time to time outstanding thereon as evidenced by the Note (together with all renewals, extensions, amendments, increases or modifications thereof) and the payment of all other sums which Assignor is or may from time to time be obligated to pay or cause to be paid to Assignee, in connection with the Loan as evidenced by the Note; and (b) performance of all obligations thereunder and under the Deed of Trust, and any other instrument evidencing or securing the Note, and renewals and extensions, amendments, increases or modifications thereof and any indebtedness represented thereby.

3. Assignor hereby represents, warrants and agrees that:

- (a) Assignor has the right, power and capacity to make this Assignment and that no person, firm or corporation other than Assignor has or will have any rights, title or interest as landlord in or to the Leases or the Rents.
- (b) Assignor will, at Assignor's sole cost and expense, perform and discharge all of the obligations and undertakings of the landlord under the Leases. Assignor will use all reasonable efforts to enforce or secure the performance of each and every obligation and undertaking of the tenants under the Leases and will appear in and prosecute or defend any action or proceeding arising under, or in any manner connected with, the Leases or the obligations and undertakings of the tenants thereunder.
- (c) Assignor will not, without the prior written consent of Assignee, (i) pledge, transfer, mortgage or otherwise encumber or assign the Leases or the Rents; (ii) waive, excuse, condone or in any manner release or discharge any tenant under any of the Leases; (iii) disaffirm, cancel, terminate or consent to any surrender of any of the Leases; (iv) modify, extend or in any way alter the terms of any of the Leases so as to reduce or diminish or postpone the

payments of Rents; or (v) anticipate Rents more than 30 days prior to accrual.

- (d) Any default by Assignor in the performance of any obligation or undertaking hereunder shall constitute and be deemed to be an event of default under the Deed of Trust so as to entitle Assignee to exercise any and all of the rights and remedies thereunder, including the right to declare all sums payable under the Note immediately due and payable.
- (e) There are no existing defaults under any of the Leases, and Assignor has not performed any act or executed any instrument which might prevent Assignee from operating under any of the terms and provisions hereof or which would limit Assignee in such operation.
- (f) All Leases demising the Property and shall be bona fide, arms length Leases, and shall be reasonably acceptable to Assignee, and shall have a term of at least one (1) year. Prior to Assignor's execution thereof, each Lease, if requested by Assignee, shall be submitted to Assignee for its written approval, which approval shall not be unreasonably withheld. Assignee shall include in each of the Leases a provision requiring, and Assignee shall be entitled to receive from any such tenant, from time to time, an estoppel certificate representing certain matters with respect to such Lease (or if such representation cannot be made, an explanation thereof), including, but not limited to, the following: that such Lease is in full force and effect; that the tenant is physically occupying the premises; that the tenant has no offsets or defenses thereto; the current rent being paid; the date to which rent has been paid; that the landlord is not in default thereunder; and that to tenant's best knowledge, there have been no prior assignments of such Lease, with said estoppel certificate to otherwise be in form and substance reasonably acceptable to Assignee.

4. These presents shall not be deemed or construed to constitute Assignee as a mortgagee in possession of the Property or to obligate Assignee to take any action hereunder, to incur expenses or to perform or discharge any obligation, duty or liability hereunder or under the Leases. Until the indebtedness evidenced by the Note shall have been paid in full, Assignor will from time to time execute and deliver unto Assignee, upon demand, any and all writings that Assignee may reasonably deem necessary or desirable to carry out the purpose and intent hereof, or to enable Assignee to enforce any right or rights hereunder.

5. The term "Event of Default" as used herein shall mean, subject to any applicable notice and cure periods contained in the Loan Documents, the occurrence of any one of the following:

- (a) If Assignor shall fail to comply with any of the covenants, duties or obligations of Assignor herein;

- (b) If a default shall occur under the Note, the Deed of Trust, or any instrument relating to, evidencing or securing the Loan; or
- (c) If at any time any representation or warranty made by Assignor herein shall be materially incorrect and the conditions rendering such representation or warranty materially incorrect are not modified so as to make such representation and warranty materially correct promptly after written notice and demand to Assignor.

6. Notwithstanding anything contained in any other document relating to the Loan, this Assignment is a present and absolute assignment of Rents. So long as no Event of Default shall occur or remain uncured and shall be continuing, Assignor shall have a license to collect all of the Rents. From and after the occurrence of an Event of Default, and so long as such Event of Default shall be continuing (whether or not Assignee shall have exercised Assignee's option to declare the Note due and payable), such license shall be revoked and all Rents assigned hereunder shall be paid directly to Assignee; and Assignee may notify the tenants under the Leases or any other parties in possession of the Property to pay all of the Rents directly to Assignee, for which written advice of this Assignment to such parties shall be sufficient notice. Rents so paid to Assignee may be applied by Assignee, at Assignee's sole discretion, to the payment of the costs and expenses of the operation of the Property, to the payment of accrued interest and principal on the Loan as represented by the Note and/or to the prepayment of the Loan as represented by the Note, all in such order and in such respective amounts as Assignee shall from time to time determine.

7. Anything to the contrary or seemingly to the contrary notwithstanding, (a) Assignor hereby assigns to Assignee any award made hereafter to Assignor in any court proceeding involving any of the tenants under the Leases, in any bankruptcy, insolvency or reorganization proceeding in any state or federal court, and any and all payments made by said tenants in lieu of rent; and (b) Assignor hereby appoints Assignee as Assignor's irrevocable attorney-in-fact to appear in any action and/or to collect any such award or payment; any such assignment and appointment to become operative upon the occurrence of an Event of Default and to remain in full force and effect so long as any such Event of Default continues.

8. Assignor, upon the occurrence of an Event of Default, hereby authorizes and agrees that Assignee may pursue any and all remedies available to it at law or in equity to enforce its rights hereunder, including all rights under the Utah Uniform Assignment of Rents Act, and to assist Assignee, at Assignee's option, to enter and take possession of the Property and to manage and operate the same; to collect as herein provided all or any Rents accruing therefrom and from the Leases; to let or relet the Property or any part thereof; to cancel and modify leases, evict tenants and bring or defend any suits in connection with the possession of the Property, in Assignee's own name or Assignor's name, pursuant to the terms of the Leases; to make repairs as Assignee deems appropriate; and to perform such other acts in connection with the management and operation of the Property as Assignee, in Assignee's discretion, may deem proper.

9. The receipt by Assignee of any Rents pursuant to this Assignment after the institution of foreclosure proceedings under the Deed of Trust shall be on account, and shall not cure any such Event of Default or affect such proceedings or any sale pursuant thereto.

10. Assignee shall not be obligated to perform or discharge any obligation or duty to be performed or discharged by Assignor under any of the Leases, and Assignor hereby agrees to indemnify Assignee for, and to save Assignee harmless from, any and all liability arising from any of the Leases or from this Assignment. This Assignment shall not place responsibility for the control, care, management or repair of the Property upon Assignee, or make Assignee responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Property resulting in loss or damage or injury or death to any tenant, licensee, employee or stranger; provided, however, this covenant to indemnify and save Assignee harmless shall not apply to any liability caused by Assignee's gross negligence or willful misconduct occurring while Assignee has actual possession of the Property and is operating same pursuant hereto, upon foreclosure or otherwise.

11. The failure of Assignee to enforce any of the terms, covenants or conditions hereof shall not be construed or deemed to be a waiver of any rights or remedies hereunder. Assignee shall have the full right, power and authority to enforce this Assignment, or any of the terms, covenants or conditions hereof, at any time or times that Assignee shall deem fit.

12. All notices required or permitted to be given hereunder shall be deemed properly given if given in accordance with the terms of the Deed of Trust.

13. The full performance of the Deed of Trust and the duly recorded release thereof shall also operate as a reassignment and be effective to reassign the Rents from the date of such release or reconveyance regardless of the mention or inclusion of this Assignment therein.

14. This Assignment applies to and binds the parties hereto and their respective successors, assigns, and legal representatives, as well as any subsequent owner of the Property (or any portion thereof) and any assignee of the Deed of Trust. Any provisions in any other agreement creating rights in Assignee other than those created herein shall be deemed incorporated herein by reference and made a part hereof for all purposes.

15. In the event of a conflict between this Assignment and the Deed of Trust (with respect to the assignment of rents and leases contained herein only), this Assignment shall control. In addition, notwithstanding anything contained herein to the contrary, in the event of a conflict between the terms of this Assignment and the Utah Uniform Assignment of Rents Act ("UARA"), the provisions of UARA shall control.

16. By acceptance of this Assignment, Assignee agrees to the terms hereof.

IN WITNESS WHEREOF, Assignor has caused this instrument to be executed as of the date first above written.

ASSIGNOR:

**Pono Vista Investments, LLC
a Utah limited liability company**

**By: P&KG Holdings, LLC
a Wyoming limited liability company**

By: *Paul Rulon Kelii Garfield*
Paul Rulon Kelii Garfield
Its: Sole Member

STATE OF UTAH
COUNTY OF Utah

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This instrument was acknowledged before me on this 8th day of November, 2024 by **Paul Rulon Kelii Garfield**, Sole Member of **P&KG Holdings, LLC**, a Wyoming limited liability company acting as Member of **Pono Vista Investments, LLC**, a Utah limited liability company, on behalf of said entity.



Marci K Clark
Notary Public in and for the State of Utah

EXHIBIT "A"

**LOT 85, AMENDED PLAT LAKEVIEW HEIGHTS BLOCK FOUR, ACCORDING TO
THE OFFICIAL PLAT THEREOF ON FILE AND OF RECORD IN THE SALT LAKE
COUNTY RECORDERS OFFICE, STATE OF UTAH.**