

E 165767 B 409 P 314
Date: 02-May-2024 03:05PM
Fee: \$40.00 ACH
Filed By: JM
BRENDA NELSON, Recorder
MORGAN COUNTY
For: HOLLAND & HART LLP - SLC
Recorded Electronically by Simplifile

When Recorded, Mail to:
Anaya Gayle
Holland & Hart LLP
222 S. Main Street, Suite 2200
Salt Lake City, Utah 84101

TRUST DEED AND FIXTURE FILING

Parcel No.: 00-0091-9335

THIS TRUST DEED AND FIXTURE FILING ("*Trust Deed*") is made this 2nd day of May 2024, by NVRMV1, LLC, a Delaware limited liability company, the address of which is 36 South State Street Suite 500, Salt Lake City, Utah 84111, ("*Trustor*"); Cottonwood Title Insurance Agency, Inc., the address of which is 7020 South Union Park Avenue, Midvale, Utah 84047, and its successors in trust and assigns ("*Trustee*"), and Wasatch Peaks Ranch, LLC, a Delaware limited liability company the address of which is 36 South State Street, Suite 500, Salt Lake City, Utah 84111 ("*Beneficiary*").

1. **GRANTING CLAUSE.** Trustor, in consideration of the acceptance by Trustee of the trust hereunder, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the obligations described in Section 2 below, sells, transfers, assigns and conveys to Trustee and its successors in trust and assigns, forever, in trust, with power of sale, all of Trustor's estate, right, title, interest, claim, and demand in and to the property in the county of Morgan, State of Utah more particularly described in Exhibit A hereto and incorporated by reference ("*Property*", whether now existing or hereafter acquired and including all property described in all parts of this Trust Deed):

1.1 **Land and Appurtenances.** The Property, and all tenements, hereditaments, rights-of-way, easements, appendages, and appurtenances thereto belonging or in any way appertaining, including without limitation all of the right, title, and interest of Trustor in, and to any avenues, streets, ways, alleys, vaults, strips or gores of land adjoining that Property, all water rights, other rights to lease or use water, water stock, drains, drainage and air rights relating to that Property and all claims or demands of Trustor either in law or in equity in possession or expectancy of, in and to that Property; and

1.2 **Improvements and Fixtures.** All buildings, structures, and other improvements now or hereafter erected on the Property, and all facilities, fixtures, machinery, apparatus, installations, goods, equipment, inventory, furniture, building materials and supplies and other properties of whatsoever nature, now or hereafter located in or used or procured for use in connection with that Property, it being the intention of the parties that all property of the character hereinabove described that is now owned or hereafter acquired by Trustor and that is affixed or attached to, stored upon or used in connection with the Property shall be, remain, or become a portion of that Property and shall be covered by and subject to the lien of this Trust Deed, together with all contracts, agreements, permits, plans, specifications, drawings, surveys, engineering reports, and other work products relating to the construction of the existing or any future improvements on the Property, any and all rights of Trustor in, to, or under any architect's contracts or construction contracts relating to the construction of the existing or any future improvements on the

Property, and any performance and/or payment bonds issued in connection therewith, together with all trademarks, trade names, copyrights, computer software, and other intellectual property used by Trustor in connection with the Property; and

1.3 **Enforcement and Collection.** Any and all rights of Trustor without limitation to make claim for, collect, receive, and receipt for any and all rents, income, revenues, issues, royalties, and profits, including mineral, oil, and gas rights and profits, insurance proceeds of any kind (whether or not Beneficiary requires such insurance and whether or not Beneficiary is named as an additional insured or loss payee of such insurance), condemnation awards, and other moneys, payable or receivable from or on account of any of the Property, including interest thereon, or to enforce all other provisions of any other agreement (including those described in Section 1.2 above) affecting or relating to any of the Property, to bring any suit in equity, action at law, or other proceeding for the collection of such moneys or for the specific or other enforcement of any such agreement, award, or judgment, in the name of Trustor or otherwise, and to do any and all things that Trustor is, may be, or become entitled to do with respect thereto, provided, however, that no obligation of Trustor under the provisions of any such agreements, awards, or judgments shall be impaired or diminished by virtue hereof, nor shall any such obligation be imposed upon Trustee or Beneficiary; and

1.4 **Accounts and Income.** Any and all rights of Trustor in any and all accounts, rights to payment, contract rights, chattel paper, documents, instruments, licenses, contracts, agreements, and general intangibles relating to any of the Property, including, without limitation, income and profits derived from the operation of any business on the Property or attributable to services that occur or are provided on the Property or generated from the use and operation of the Property; and

1.5 **Books and Records.** All books and records of Trustor relating to the foregoing in any form.

2. **OBLIGATIONS SECURED.** This Trust Deed is given for the purpose of securing:

2.1 **Performance and Payment.** The performance of the obligations contained herein and the payment of all amounts payable according to the terms of a demand promissory note of even date herewith made by Trustor, payable to Beneficiary, and any and all extensions, renewals, modifications, or replacements, thereof, whether the same be in greater or lesser amounts (the "*Note*").

2.2 **Future Advances.** The repayment of any and all sums advanced or expenditures (together the "Expenditures") made by Beneficiary subsequent to the execution of this Trust Deed for the maintenance or preservation of the Property or advanced or expended by Beneficiary pursuant to any provision of this Trust Deed subsequent to its execution, together with interest thereon.

2.3 **Preservation of Lien.** Trustor will preserve and protect the priority of this Trust Deed as a first lien on the Property. If Trustor fails to do so, Beneficiary may take any and all steps necessary or appropriate to do so and all sums expended by Beneficiary in so doing shall be treated as part of the obligations secured by this Trust Deed, shall be paid by Trustor upon demand by Beneficiary and shall bear interest at the highest rate borne by any of the obligations secured by this Trust Deed.

2.4 **Repair and Maintenance of Property.** Trustor will keep the Property in a reasonable condition and repair, which duty shall include but is not limited to cleaning, repairing, and

otherwise maintaining the Property; will complete or restore promptly and in good and workmanlike manner any such building, portions of buildings or other improvement that may be damaged or destroyed, unless such improvement was improperly constructed by Beneficiary, and pay when due all claims for labor performed and materials furnished therefor; will not commit, suffer, or permit any act upon the Property in violation of law; and will do all other acts that from the character or use of the Property may be reasonably necessary for the continued operation of the Property in a safe and legal manner, the specific enumerations herein not excluding the general.

2.5 **Insurance**

2.5.1. **All Risk/Hazard.** Trustor will provide, maintain and deliver to Beneficiary, as further security for the faithful performance of this Trust Deed, all risk insurance covering fire, casualty and such other hazards as may be specified by Beneficiary (including insurance against flood, if the Property is situated in a designated flood zone). All policies of insurance on the Property, whether or not required by the terms of this Trust Deed, shall include such deductibles as approved by Beneficiary but that are, in any event, not more than One Hundred Thousand Dollars (\$100,000). Trustor shall be responsible for any uninsured losses and any deductibles. All existing and future policies for all insurance required by this Trust Deed and all other insurance obtained by Trustor with respect to the Property, whether or not required by Beneficiary (including, but not limited to, earthquake insurance), and the proceeds of all of the foregoing, are hereby assigned to Beneficiary, but no such assignment shall be effective to invalidate or impair any insurance policy.

2.5.2. **Liability.** Trustor will maintain comprehensive general liability insurance covering the legal liability of Trustor against claims for bodily injury, personal injury, death, property damage or advertising injury occurring on, in, or about the Property with coverage of Two Million Dollars (\$2,000,000) combined single limit, and naming Beneficiary an additional insured, or those amounts required by Beneficiary.

2.5.3. **General Provisions.** All policies of insurance required to be maintained by Trustor pursuant to this Section 2.5.3 shall: (i) be primary and noncontributory with any other insurance Trustor may carry; (ii) be in form and substance and with companies acceptable to Beneficiary which are authorized to conduct business in the state in which the Property is located; and (iii) contain waivers of subrogation and of any co-insurance clauses. Trustor shall deliver to Beneficiary an original of all policies of insurance and shall obtain renewals of any policies which expire and deliver evidence of such renewals to Beneficiary no later than ten (10) days prior to the expiration date of the policy being replaced. All policies and renewals thereof shall contain provision for thirty (30) days' notice to Beneficiary prior to any cancellation thereof or material change thereto. In the event of any loss covered by such policies, Trustor shall give immediate written notice to the insurance carrier and to Beneficiary. Trustor hereby authorizes and empowers Beneficiary as attorney-in-fact for Trustor to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Beneficiary's expenses incurred in the collection of such proceeds; provided, however, that nothing contained in this Section 2.5.3 shall require Beneficiary to incur any expense or take any action hereunder. Notwithstanding any of the foregoing, neither Trustor nor Beneficiary shall be responsible for any such insurance or for the collection of any insurance moneys, or for any insolvency of any insurer or insurance underwriter. Any and all

unexpired insurance shall inure to the benefit of and pass to the purchaser of the Property at any trustee's or sheriff's sale held hereunder.

2.5.4. Damage and Destruction.

(a) **Trustor's Obligations.** In the event of any damage to or loss or destruction of the Property, Trustor shall: (i) promptly notify Beneficiary of such event if the damage to or loss or destruction of the Property is of a value in excess of One Hundred Thousand Dollars (\$100,000); (ii) take such steps as shall be necessary to preserve any undamaged portion of the Property; and (iii) unless otherwise instructed by Beneficiary shall, regardless of whether the insurance proceeds, if any, shall be sufficient for the purpose, promptly commence and diligently pursue to completion the restoration, replacement and rebuilding (collectively, "**Restoration**") of the Property as nearly as possible to either (A) its value, condition and character immediately prior to such damage, loss or destruction, or (B) its value, condition and character as of the effective date of this Trust Deed. Any Restoration shall proceed in accordance with plans and specifications approved, and with other provisions for the preservation of the security hereunder established, by Beneficiary, which approval shall not be unreasonably withheld or delayed.

(b) **Beneficiary's Rights: Application of Proceeds.** In the event that any portion of the Property is so damaged, destroyed or lost, and any such damage, destruction or loss is covered in whole or in part, by insurance described herein, whether or not such insurance is specifically required by the terms of this Trust Deed, then the following provisions shall apply:

(i) If an Event of Default (as defined herein) has occurred hereunder and is continuing: (A) Beneficiary may, but shall not be obligated to, make proof of loss to any insurer if not made promptly by Trustor, and Beneficiary is hereby authorized and empowered by Trustor to settle, adjust or compromise any claims for damage, destruction or loss thereunder unless the proposed amount of proceeds from such claims exceeds the then outstanding amount of the indebtedness secured hereby, and (B) each insurance company concerned is hereby authorized and directed to make payment therefor directly to Beneficiary, to be applied, at Beneficiary's option, to the indebtedness secured hereby in such order as Beneficiary may determine, in its sole discretion or to be held by Beneficiary for future application to the obligations secured hereby. Unless otherwise required by law, any application to the indebtedness secured hereby by Beneficiary of such payments shall not, by itself, cure or waive any Event of Default hereunder or notice of default under this Trust Deed or invalidate any act done pursuant to such notice or waive any collateral encumbered hereby or otherwise securing the Note.

(ii) If no Event of Default hereunder has occurred and is continuing Trustor shall be entitled to receive all such proceeds and shall, unless otherwise instructed by Beneficiary, apply such proceeds to the Restoration of the Property pursuant to the terms of Section 2.5.4(a).

2.6 Right of Inspection. Trustor shall permit Beneficiary or its agents or independent contractors (including, but not limited to, appraisers, environmental consultants and construction consultants), at all reasonable times, to enter upon and inspect the Property.

2.7 **Compliance with Laws, Etc.; Preservation of Licenses.**

2.7.1. Trustor shall comply in all material respects with (a) all laws, statutes, ordinances, rules, regulations, licenses, permits, approvals, orders, judgments and other requirements of governmental authorities relating to the Property or Trustor's use thereof, and (b) all easements, licenses and agreements relating to the Property or Trustor's use thereof.

2.7.2. Trustor shall observe and comply with all requirements necessary to the continued existence and validity of all rights, licenses, permits, privileges, franchises, and concessions relating to any existing or presently contemplated use of the Property, including but not limited to any zoning variances, special exceptions, and nonconforming use permits.

2.8 **Further Assurances.** Trustor will, at its expense, from time to time, execute and deliver any and all such instruments of further assurance and other instruments and do any and all such acts, or cause the same to be done, as Trustee or Beneficiary deems necessary or advisable to grant to Trustee the Property or to carry out more effectively the purposes of this Trust Deed.

2.9 **Legal Actions.** Trustor will appear in and defend any action or proceeding before any court or administrative body purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and will pay all costs and expenses, including cost of evidence of title, title insurance premiums, and any fees of attorneys, appraisers, environmental inspectors, and others, incurred by Beneficiary or Trustee, in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary or Trustee to foreclose this Trust Deed and in any non judicial foreclosure of this Trust Deed.

2.10 **Taxes, Assessments, and Other Liens.** Trustor will pay not later than when due all taxes, assessments, encumbrances, charges, and liens with interest, on the Property or any part thereof, which at any time appear to be or are alleged to be prior and superior hereto, including but not limited to any tax on or measured by rents of the Property, the Note, this Trust Deed, or any obligation or part thereof secured hereby.

2.11 **Trust Expenses.** Trustor will pay all costs, fees, and expenses reasonably incurred by Beneficiary or Trustee in connection with this Trust Deed.

2.12 **Repayment of Expenditures.** Trustor will pay within ten (10) days after written demand all amounts secured by this Trust Deed, other than principal of and interest on the Note, with interest from date of Expenditure at the default rate of interest specified in the Note (the "*Default Rate*") and the repayment thereof shall be secured hereby.

2.13 **Sale, Transfer, or Encumbrance of Property.** Trustor shall not, without the prior written consent of Beneficiary (which consent shall be subject to the conditions set forth below), sell, transfer, otherwise convey the Property or any interest therein, voluntarily or involuntarily, or further encumber the Property or any interest therein, cause or permit any change in the entity, ownership, or control of Trustor or, with the exception of entering into a contract with a third party for the sale or conveyance of any Unit constructed on the Property, agree to do any of the foregoing or agree to do any of the foregoing without first repaying the Note in accordance with the terms thereof (which payments may result in a partial release of this Trust Deed in accordance with the terms of this Trust Deed and the Note)

and all other sums secured hereby as otherwise specified herein and in the Note. Notwithstanding the preceding sentence, Trustor may sell Units (as such term is defined in the Note) on the Property without Beneficiary's prior consent, and, upon Beneficiary's receipt of any Installment (as such term is defined in the Note) payable pursuant to the Note as a result of the closing of a Unit, Beneficiary shall execute and authorize recordation of a partial release of this Trust Deed and reconveyance of the portion of the Property conveyed pursuant to the sale of such Unit.

2.14 **Trustor Existence.** If Trustor is a corporation, partnership, limited liability company or other entity, Beneficiary is making this loan in reliance on Trustor's continued existence, ownership and control in its present form. Trustor will not alter its name, jurisdiction of organization, structure, ownership or control without the prior written consent of Beneficiary and will do all things necessary to preserve and maintain said existence and to ensure its continuous right to carry on its business

3. DEFAULT

3.1 **Definition.** Any of the following shall constitute an "Event of Default" as that term is hereinafter used:

3.1.1. Trustor or any other person or entity liable therefor failing to pay when due any indebtedness secured hereby;

3.1.2. Trustor or any other signatory thereto failing to perform any covenant or agreement contained in this Trust Deed, the Note, or any other agreement securing, or executed in connection with, the indebtedness secured hereby;

3.1.3. Trustor or any other person or entity liable for the repayment of the indebtedness secured hereby (a) becoming unable or admitting in writing its inability to pay its debts as they mature, (b) filing, or having filed against it, a voluntary or involuntary petition in bankruptcy, (c) making a general assignment for the benefit of creditors, or (d) becoming the subject of any other receivership or insolvency proceeding;

3.1.4. Trustor or any other signatory thereto defaulting in the performance of any covenant or agreement contained in any mortgage or trust deed encumbering the Property, or the Note or any other agreement evidencing or securing the indebtedness evidenced thereby;

3.1.5. A tax, charge, or lien being placed upon or measured by the Note, this Trust Deed, or any obligation secured hereby that Trustor does not or may not legally pay in addition to the payment of all principal and interest as provided in the Note; or

3.1.6. Any default under any certificate and indemnity agreement regarding hazardous substances executed by Trustor in favor of Beneficiary.

3.2 **Beneficiary's and Trustee's Right to Perform.** Upon the occurrence of any Event of Default, Beneficiary or Trustee, but without the obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligations hereunder, may: (a) make any payments or do any acts required of Trustor hereunder in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such

purposes; (b) commence, appear in, and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; (c) pay, purchase, contest, or compromise any encumbrance, charge, or lien in accordance with the following paragraph; (d) in exercising any such powers, pay necessary expenses, employ counsel, and pay a reasonable fee therefor, all sums so expended shall be paid demand by Trustor, and are secured hereby and shall bear interest at the Default Rate of interest specified in the Note from the date advanced or expended until repaid. Beneficiary or Trustee in making any payment herein is hereby authorized, in the place and stead of Trustor, in the case of a payment of taxes, assessments, water rates, sewer rentals, and other governmental or municipal charges, fines, impositions, or liens asserted against the Property, to make such payment in reliance on any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of the bill, statement, or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien, or title or claim thereof. In the case of any apparent or threatened adverse claim, of title, lien, statement of lien, encumbrance, trust deed, claim, or charge Beneficiary or Trustee, as the case may be, shall be the sole judge of the legality or validity of same; and in the case of a payment for any other purpose herein and hereby authorized, but not enumerated in this paragraph, such payment may be made whenever, in the sole judgment and discretion of Trustee or Beneficiary, as the case may be, such advance or advances shall seem necessary or desirable to protect the full security intended to be created by this instrument, provided further, that in connection with any such advance, Beneficiary at its option may and is hereby authorized to obtain a continuation report of title prepared by a title insurance company, the cost and expenses of which shall be repayable by Trustor without demand and shall be secured hereby.

3.3 **Remedies on Default.** Upon the occurrence of any Event of Default all sums secured hereby shall become immediately due and payable, without notice or demand, at the option of Beneficiary and Beneficiary may:

3.3.1. Have a receiver appointed as a matter of right on an ex parte basis without notice to Trustor and without regard to the sufficiency of the Property or any other security for the indebtedness secured hereby and, without the necessity of posting any bond or other security, such receiver shall take possession and control of the Property and shall collect and receive all of the rents, issues, and profits thereof;

3.3.2. Foreclose this Trust Deed as a mortgage or otherwise realize upon the Property;

3.3.3. Cause Trustee to exercise its power of sale;

3.3.4. Instruct Trustor in writing to immediately reconvey the Property to Beneficiary, free and clear of liens, in which case Trustor shall, as soon as practicable after the receipt of such written instruction, record a Special Warranty Deed reconveying the Property to Beneficiary, free and clear of all liens;

3.3.5. Record a Special Warranty Deed held by Trustee, which recordation shall occur upon the unilateral instruction of Beneficiary to the Trustee, which no approval or Consent of Trustor required; or

3.3.6. Avail itself of any other right or remedy available to it under the terms of this Trust Deed, the other Loan Documents (as defined below) or applicable law.

3.4 **No Waiver.** By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right either to require prompt payment when due of all other sums so secured or to declare an Event of Default for failure to do so.

3.5 **Waiver of Marshaling, Etc.** In connection with any trustee's sale or other foreclosure sale under this Trust Deed, Trustor hereby waives, for itself and all others claiming by, through or under Trustor, any right Trustor or such others would otherwise have to require marshaling or to require that the Property be sold in parcels or in any particular order.

3.6 **Remedies Cumulative; Subrogation.** The rights and remedies accorded by this Trust Deed shall be in addition to, and not in substitution of, any rights or remedies available under now existing or hereafter arising applicable law. All rights and remedies provided for in this Trust Deed or afforded by law or equity are distinct and cumulative and may be exercised concurrently, independently, or successively. The failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver of any default shall not constitute a waiver of any subsequent or other default. Beneficiary shall be subrogated to the claims and liens of those whose claims or liens are discharged or paid with the loan proceeds hereof.

4. **CONDEMNATION.** Any award of damages, whether paid as a result of judgment or prior settlement, in connection with any condemnation or other taking of any portion of the Property, for public or private use, or for injury to any portion of the Property is hereby assigned and shall be paid to Beneficiary which may apply such moneys received by it in the same manner and with the same effect as provided in Section 2.5.5 above for disposition of proceeds of hazard insurance, provided that if the taking results in a loss of the Property to an extent which, in the reasonable opinion of Beneficiary, renders or will render the Property not economically viable or which substantially impairs Beneficiary's security or lessens to any extent the value, marketability or intended use of the Property, Beneficiary may apply the condemnation proceeds to reduce the unpaid indebtedness secured hereby in such order as Beneficiary may determine, and without any adjustment in the amount of installments due under the Note. If so applied, any proceeds in excess of the unpaid balance of the Note and other sums due to Beneficiary shall be paid to Trustor or Trustor's assignee. Beneficiary shall in no case be obligated to see to the proper application of any amount paid over to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. Should the Property or any part or appurtenance thereof or right or interest therein be taken or threatened to be taken by reason of any public or private improvement, condemnation proceeding (including change of grade), or in any other manner, Beneficiary may, at its option, commence, appear in and prosecute, in its own name, any action or proceeding, or make any reasonable compromise or settlement in connection with such taking or damage, and obtain all compensation, awards or other relief therefor, and Trustor agrees to pay Beneficiary's costs and reasonable attorneys' fees incurred in connection therewith. No condemnation award at any time assigned to or held by Beneficiary shall be deemed to be held in trust, and Beneficiary may commingle such award with its general assets and shall not be liable for the payment of any interest thereon.

5. TRUSTEE

5.1 **General Powers and Duties of Trustee.** At any time or from time to time, without liability therefor and without affecting the liability of any person for the payment of the indebtedness secured hereby, upon written request of Beneficiary, payment of its own fees and presentation of this Trust Deed and the Note for endorsement (in case of full reconveyance, for cancellation or retention) or presentation of other evidence that the obligations secured hereby have been satisfied, Trustee may:

- (a) Consent to the making of any map or plat of the Property;
- (b) Join in granting any easement or creating any restriction thereon;
- (c) Join in any subordination or other agreement affecting this Trust Deed or the lien or charge thereof; or
- (d) Reconvey, without warranty, all or any part of the Property.

5.2 **Partial Reconveyance/Reconveyance.** Upon written request of Beneficiary stating that a portion of sums secured have been paid, along with evidence that the obligations secured hereby have been partially satisfied, Trustee shall partially reconvey, without warranty, that portion of the Property to be released from this Trust Deed. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Trust Deed and the Note (or other evidence that the obligations secured hereby have been satisfied) to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in any reconveyance (or partial reconveyance) executed under this Trust Deed of any matters of fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons entitled thereto."

5.3 **Powers and Duties on Default.** Upon written request therefor by Beneficiary specifying the nature of the default, or the nature of the several defaults, and the amount or amounts due and owing, Trustee shall execute a written notice of default and of its election to cause the Property to be sold to satisfy the obligation secured hereby, and shall cause such notice to be recorded and otherwise given according to law.

Notice of sale having been given as then required by law and not less than the time then required by law having elapsed after recordation of such notice of breach, Trustee, without demand on Trustor, shall sell the Property at the time and place of sale specified in the notice, as provided by statute, either as a whole or in separate parcels and in such order as it may determine, at public auction to the highest and best bidder for cash in lawful money of the United States, payable at time of sale. Trustor agrees that such a sale (or a sheriff's sale pursuant to judicial foreclosure) of all the Property as real estate constitutes a commercially reasonable disposition thereof. Trustee may postpone sale of all or any portion of the Property, and from time to time thereafter may postpone such sale, as provided by statute. Trustee shall deliver to the purchaser its deed conveying the Property so sold, but without any covenant or warranty, express, or implied. The recital in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person other than Trustee, including Trustor or Beneficiary, may purchase at such sale.

After deducting all costs, fees, and expenses of Trustee and of this trust, including the cost of evidence of title search, title insurance, and reasonable counsel fees in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums secured hereby in such order as Beneficiary may determine; and the remainder, if any, to the person or persons entitled thereto or Trustee, in its discretion, may deposit the balance of such proceeds with the county clerk of the county in which the sale took place.

5.4 **Acceptance of Trust.** Trustee accepts this trust when this Trust Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto except Beneficiary of pending sale under any other trust deed or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

5.5 **Reliance.** Trustee, upon presentation to it of an affidavit signed by Beneficiary setting forth facts showing a default by Trustor under this Trust Deed, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

5.6 **Replacement of Trustee.** Beneficiary may, from time to time, as provided by statute, appoint another trustee in place and stead of Trustee herein named, and thereupon Trustee herein named shall be discharged and the trustee so appointed shall be substituted as Trustee hereunder, with the same effect as if originally named Trustee herein.

6. NOTICES

6.1 **Trustee.** Any notice or demand upon Trustee may be given or made at the address set forth above for Trustee.

6.2 **Trustor and Beneficiary.** Any notice to or demand upon Trustor (including any notice of default or notice of sale) or notice to or demand upon Beneficiary shall be deemed to have been sufficiently made for all purposes when deposited in the United States mails, postage prepaid, registered or certified, return receipt requested, addressed to Trustor at its address set forth above or to Beneficiary at the following address:

Wasatch Peaks Ranch, LLC
36 South State Street
Suite 500
Salt Lake City, Utah 84111
Attn: Ed Shultz

or to such other address as the recipient may have directed by notice in accordance herewith.

6.3 **Waiver of Notice.** The giving of notice may be waived in writing by the person or persons entitled to receive such notice, either before or after the time established for the giving of such notice.

7. **MODIFICATIONS.** Upon written request of any party then liable for any sum secured hereby, Beneficiary reserves the right to extend the term, or otherwise modify the terms, hereof or of the Note as Beneficiary and such person may from time to time deem appropriate and any such change shall not operate to release, in any manner, the liability of the original Trustor or Trustor's successors in interest.

8. **SUCCESSORS AND ASSIGNS.** All provisions herein contained shall be binding upon and inure to the benefit of the respective successors and assigns of the parties.

9. **GOVERNING LAW; SEVERABILITY.** This Trust Deed shall be governed by the law of the State of Utah. In the event that any provision or clause of this Trust Deed or the Note conflicts with applicable law, the conflict shall not affect other provisions of this Trust Deed or the Note that can be given effect without the conflicting provision and to this end the provisions of this Trust Deed and the Note are declared to be severable.

10. **TRUSTOR'S RIGHT TO POSSESSION.** Trustor may be and remain in possession of the Property for so long as it is not in default hereunder or under the terms of the Note and Trustor may, while it is entitled to possession of the Property, use the same.

11. **MAXIMUM INTEREST.** No provision of this Trust Deed or of the Note shall require the payment or permit the collection of interest in excess of the maximum permitted by law. If any excess of interest in such respect is herein or in the Note provided for, neither Trustor nor its successors or assigns shall be obligated to pay that portion of such interest that is in excess of the maximum permitted by law, and the right to demand the payment of any such excess shall be and is hereby waived and this Section 14 shall control any provision of this Trust Deed or the Note that is inconsistent herewith.

12. **ATTORNEYS' FEES AND LEGAL EXPENSES.** In the event of any default under this Trust Deed, or in the event that any dispute arises relating to the interpretation, enforcement, or performance of any obligation secured by this Trust Deed, Beneficiary shall be entitled to collect from Trustor on demand all fees and expenses incurred in connection therewith, including but not limited to fees of attorneys, accountants, appraisers, environmental inspectors, consultants, expert witnesses, arbitrators, mediators, and court reporters. Without limiting the generality of the foregoing, Trustor shall pay all such costs and expenses incurred in connection with: (a) arbitration or other alternative dispute resolution proceedings, trial court actions, and appeals; (b) bankruptcy or other insolvency proceedings of Trustor, any guarantor or other party liable for any of the obligations secured by this Trust Deed, or any party having any interest in any security for any of those obligations; (c) judicial or nonjudicial foreclosure on, or appointment of a receiver for, any of the Property; (d) postjudgment collection proceedings; (e) all claims, counterclaims, cross-claims, and defenses asserted in any of the foregoing whether or not they arise out of or are related to this Trust Deed; (f) all preparation for any of the foregoing; and (g) all settlement negotiations with respect to any of the foregoing.

13. **PREPAYMENT PROVISIONS.** If at any time after default and acceleration of the indebtedness secured hereby there shall be a tender of payment of the amount necessary to satisfy such indebtedness by or on behalf of Trustor, its successors or assigns, the same shall be deemed to be a voluntary prepayment such that the sum required to satisfy such indebtedness in full shall include, to the extent permitted by law, the additional payment required under the prepayment privilege as stated in the Note.

14. **TIME IS OF THE ESSENCE.** Time is of the essence under this Trust Deed and in the performance of every term, covenant, and obligation contained herein.

15. **FIXTURE FILING.** This Trust Deed constitutes a financing statement, filed as a fixture filing in the real estate records of the county of the state in which the Property is located, with respect to

any and all fixtures included within the list of improvements and fixtures described in Section 1.2 of this Trust Deed and to any goods or other personal property that are now or hereafter will become a part of the Property as fixtures.

16. MISCELLANEOUS

16.1 Whenever the context so requires the singular number includes the plural herein, and the impersonal includes the personal.

16.2 The headings to the various sections have been inserted for convenient reference only and shall not modify, define, limit, or expand the express provisions of this Trust Deed.

16.3 This Trust Deed, the Note, and the other documents, instruments, and agreements entered into by Trustor and Beneficiary in connection therewith (collectively, the "*Loan Documents*") constitute the final expression of the entire agreement of the parties with respect to the transactions set forth therein. No party is relying upon any oral agreement or other understanding not expressly set forth in the Loan Documents. The Loan Documents may not be amended or modified except by means of a written document executed by the party sought to be charged with such amendment or modification.

17. Waiver of jury trial. Each of Trustor and Beneficiary (for itself and its successors, assigns and participants) waives its right to a trial by jury of any claim or cause of action based upon, arising out of or related to this trust deed, the other loan documents or the transactions provided for herein or therein, in any legal action or proceeding of any type brought by any party to any of the foregoing against any other such party, whether sounding in contract, tort or otherwise. Any such claim or cause of action shall be tried by a court sitting without a jury.

DATED as of the day and year first above written.

TRUSTOR:

NVRMV1, LLC,
a Delaware limited liability company

By: Eric Yonke 

Name: Eric Yonke
Title: Authorized Signatory

State of UTAH)


:SS

County of SALT LAKE)

The foregoing instrument was acknowledged before me this 2nd day of May, 2024, by Eric Yonke,
as Authorized Signatory of NVRMV1, LLC, a Delaware limited liability company.



Online Notary Public. This notarial act involved the use of online audio/video communication technology. Notarization facilitated by SIGNIX®

Heather L. Grey 

Notary Public
Residing at: Syracuse, UT

My commission expires:
9/19/24

EXHIBIT A**PROPERTY**

A PARCEL OF LAND LYING AND SITUATED IN THE NORTH HALF OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 5, WASATCH PEAKS RANCH PLAT 1, FIRST AMENDMENT, AS RECORDED ON MAY 1, 2023, AS ENTRY NO 163347 IN THE OFFICE OF THE MORGAN COUNTY RECORDER, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF NORTH VILLAGE LANE AS SHOWN ON SAID WASATCH PEAKS RANCH PLAT 1, FIRST AMENDMENT, SAID POINT ALSO BEING 2418.89 FEET NORTH 89°22'17" WEST, ALONG THE NORTH LINE OF SAID SECTION 11, AND 1056.97 FEET SOUTH FROM THE NORTHEAST CORNER OF SAID SECTION 11, TOWNSHIP 4 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE, ALONG THE RIGHT-OF-WAY LINE OF SAID NORTH VILLAGE LANE THE FOLLOWING SIX (6) COURSES: (1) SOUTHEASTERLY 196.35 FEET ALONG THE ARC OF A 125.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 90°00'00", CHORD BEARS SOUTH 47°53'50" EAST 176.78 FEET, (2) SOUTH 02°53'50" EAST 84.78 FEET, (3) SOUTHWESTERLY 141.98 FEET ALONG THE ARC OF A 95.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 85°37'52", CHORD BEARS SOUTH 39°55'06" WEST 129.13 FEET, (4) SOUTH 82°44'02" WEST 266.72 FEET. (5) NORTHWESTERLY 24.58 FEET ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 93°53'31", CHORD BEARS NORTH 50°19'12" WEST 21.92 FEET, (6) NORTHERLY 92.47 FEET ALONG THE ARC OF A 2025.00 FOOT RADIUS REVERSE CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 2°36'59", CHORD BEARS NORTH 04°40'56" WEST 92.47 FEET TO THE BOUNDARY LINE OF PARCEL 6 OF SAID WASATCH PEAKS RANCH PLAT 1, FIRST AMENDMENT; THENCE, ALONG THE SAID BOUNDARY LINE OF PARCEL 6, THE FOLLOWING FIVE (5) COURSES: (1) NORTH 82°44'24" EAST 235.70 FEET, (2) NORTHEASTERLY 44.84 FEET ALONG THE ARC OF A 30.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 85°38'14", CHORD BEARS NORTH 39°55'17" EAST 40.78 FEET, (3) NORTH 02°53'50" WEST 23.86 FEET, (4) NORTHWESTERLY 47.12 FEET ALONG THE ARC OF A 30.00 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 89°59'57", CHORD BEARS NORTH 47°53'48" WEST 42.43 FEET, (5) SOUTH 87°06'13" WEST 238.58 FEET TO THE AFORE SAID RIGHT-OF-WAY LINE OF NORTH VILLAGE LANE; THENCE, ALONG SAID RIGHT-OF-WAY LINE OF NORTH VILLAGE LANE, THE FOLLOWING THREE (3) COURSES: (1) NORTH 06°11'33" WEST 89.58 FEET, (2) NORTHEASTERLY 40.71 FEET ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 93°17'44", CHORD BEARS NORTH 40°27'18" EAST 36.36 FEET, (3) NORTH 87°06'10" EAST 233.77 FEET TO THE POINT OF BEGINNING. CONTAINS 88,244 SQUARE FEET OR 2.026 ACRES.

PARCEL NO. 00-0091-9335

31862244_v1

EXHIBIT A