

AST - 164112

WHEN RECORDED MAIL TO:
Hallock & Hallock, a professional corporation
40 West Cache Valley Blvd., Suite 9A
Logan, Utah 84341

DEED OF TRUST

With Power of Sale and Assignment of Rents

THIS DEED OF TRUST, made this 3rd day of August, 2020, between KAYSVILLE DINER, LLC as TRUSTOR, of 1249 Santa Anita Dr., Kaysville, Utah 84037, AMERICAN SECURE TITLE INSURANCE AGENCY as TRUSTEE, of 399 North Main Street, Logan, Utah 84321 and MATT W. CURRY and LEANNE S. CURRY as BENEFICIARY, of P.O. Box 97, Lewiston, Utah 84320,

WITNESSETH: that TRUSTORS CONVEY AND WARRANT TO TRUSTEE IN TRUST, WITH POWER OF SALE, the following described property, situated in Davis County, Utah:

All of Lot 1, Olde Shop Subdivision, A Subdivision of Part of Section 34, Township 4 North, Range 1 West, Salt Lake Base and Meridian, According to the Official Plat Thereof. Part of Section 34, Township 4 North, Range 1 West, Salt Lake Base and Meridian.

(Parcel No. 11-299-0001)

TOGETHER with all buildings, fixtures and improvements thereon and all water rights, rights of way, easements, rents, issues, profits, income, tenements, hereditaments, franchises, privileges and appurtenances thereunto belonging, now or hereafter used or enjoyed with said property, or any part thereof, SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits;

FOR THE PURPOSE OF SECURING (1) Payment of the indebtedness evidenced by a Promissory Note of even date herewith, in the principal sum of One Hundred Eighteen Thousand and no/100 Dollars (\$118,000.00), made by Trustors, payable to the Beneficiary or order at the times, in the manner and with interest as therein set forth; (2) the performance of each agreement of Trustors herein contained; (3) the payment of all sums which shall hereafter be advanced by the Beneficiary to the Trustors by way of additional loan or loans, and to secure any and all indebtedness of any kind whatsoever from the Trustors to the Beneficiary hereafter expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided. PROVIDED, HOWEVER, that the making of such further loans, advances or expenditures shall be optional with the Beneficiary and PROVIDE FURTHER that it is the express intention of the parties to this Deed of Trust that it shall stand as continuing security until all such further loans, advances and expenditures together with interest thereon, have been paid in full.

A. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTORS AGREE:

1. To keep the buildings upon the above described real property continuously occupied and used, and not to permit the same to become vacant, and keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting said property; not to commit or permit waste thereof; not to commit, suffer or permit any act thereupon said property in violation

of law. To cultivate, irrigate, fertilize, fumigate, prune, and do all other acts which from the character of said property may be reasonably necessary, the specifics enumerations herein not excluding the general, and in the event the above described property is used for agricultural purposes, the Trustors will use all manure produced by stock selection, seed selection, crop rotation, weed control, fertilizing the soil, drainage, prevention of erosion and pasture maintenance in accordance with good husbandry and the most approved methods of agricultural development. The Beneficiary may recover as damages for any breach of this covenant the amount it would cost to put the property in the condition called for herein. Proof of impairment of security shall be unnecessary in any suit or proceeding under this paragraph. If the loan secured hereby or any part thereof is being obtained for the purposes of financing construction of improvements on said property, Trustors further agree:

(a) To commence construction promptly and to pursue the same with reasonable diligence to completion in accordance with plans and specifications satisfactory to Beneficiary and

(b) To allow Beneficiary to inspect said property at all times during construction. Trustee, upon presentation to it of an affidavit signed by Beneficiary, setting forth facts showing a default by Trustors under this numbered paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

2. To keep buildings and improvements on and/or hereafter upon the said premises unceasingly insured against loss by fire or other hazards in such amount and form as may be required by the Beneficiary in a Company or Companies selected by the Trustors subject to disapproval by the Beneficiary, the insurance to be payable in case of loss to the Beneficiary as its interest may appear, all renewal policies to be delivered to the Beneficiary at least ten days prior to the expiration of the policy or policies renewed and in the event of the failure of the Trustors to so deliver a renewal policy, then the Beneficiary may renew or procure all required insurance upon said property and the Trustors agree to pay all premiums therefore. All insurance policies covering any structure upon said premises, regardless of amount, shall be payable as aforesaid and delivered to the Beneficiary. In the event of loss, Trustors shall give immediate notice to Beneficiary who may make proof of loss. The amount collected under any fire and other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or, at option of Beneficiary, the entire amount so collected or any part thereof may be released to Trustors. Such application or release shall not cure or waive any default or notice of default hereunder or any act done pursuant to such notice.

3. To deliver to, pay for and maintain with Beneficiary until the indebtedness secured hereby is paid in full, such evidence of title as Beneficiary may require, including abstracts of title or policies of title insurance and any extensions or renewals or supplements thereto.

4. To appear in and defend any action or proceeding purporting to affect the security hereof, the title to said property, or the rights or powers of Beneficiary or Trustee; and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorney's fees incurred by Beneficiary a reasonable sum incurred by Beneficiary or Trustee. Or incurred or advanced by the Beneficiary and/or Trustee in connection with any such action or proceeding in which the Beneficiary and/or Trustee may be joined as a party defendant or receives notice of such action, proceeding or claim asserted in such action or proceeding or proposed action or proceeding. Trustors covenant that the Trustors have a valid and unencumbered title in fee simple to the property described herein

and have the right to convey the same and warrant and will defend said title unto the Trustee and Beneficiary against the claims and demands of all persons whomsoever.

5. To pay when due all taxes and assessments affecting said property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with said property; to pay, when due, all encumbrances, charges, and liens with interest, on said property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees, and expenses of this Trust.

6. To pay all closing costs and fees associated with closing this transaction.

7. At Settlement, to pay for a Lender's policy of title insurance insuring Beneficiary in the amount of the loan.

8. Should Trustors fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustors and without releasing Trustors from any obligation hereof, may; make or do the same 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 said property for such purpose; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights and powers of the Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such power, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefore, including costs of evidence of title, employ counsel, and pay his reasonable fees.

9. To pay immediately and without demand all sums expended hereunder by Beneficiary or Trustee, with interest from date of expenditure at the rate of five percent (5.0%) per annum until paid, and the repayment thereof shall be secured hereby.

10. In addition to the payments due in accordance with the terms of the Note secured hereby, the Trustors shall, at the option and demand of the Beneficiary, pay each year to the Beneficiary, in equal installments, the estimated amount of the annual taxes, assessments insurance premiums, maintenance and other charges upon the property, such sums to be held in trust by the Beneficiary for Trustors' use and benefit for the payment by the Beneficiary of any such items when due. The estimate shall be made by the Beneficiary. If the Beneficiary shall fail to make such estimate, the amount of the preceding annual taxes, assessments, insurance premiums, maintenance and other charges as the case may be, shall be deemed to be the estimate for that year. If, however, the payment made hereunder shall not be sufficient to pay such charges when the same shall be due, the Trustors shall pay the Beneficiary any amount necessary to make up the deficiency on or before the date when the same shall become due.

B. IT IS MUTUALLY AGREED THAT:

1. If the Trustors permit any deficiency in the amount of the aggregate monthly, or other periodic payments, provided for herein or in the Note secured hereby, or any failure to pay any advancements or payments made by the Trustee and/or Beneficiary to protect and preserve the lien hereof or property described herein, such deficiency or failure shall constitute an event of default under this Deed of Trust and, if not cured within 15 days Trustors promise and agree to pay a "late charge" as set forth in the Note, and that any such "late charge" shall constitute an additional item secured by this Deed of Trust. PROVIDED HOWEVER, that Trustors shall not

become liable to pay total interest and "late charge" in excess of the highest legal rate permissible by contract under the laws of the State of Utah.

2. The fixtures and equipment described herein and/or affixed to and used and enjoyed in connection with the real property herein or any part thereof constitute permanent fixtures thereof and that such fixtures and equipment will not be severed and removed from said real property without the written consent of the Beneficiary and written reconveyance thereof by the Trustee and shall be deemed part of the realty.

3. Should said property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefore, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromises or settlement, in connection with such taking or damage. All such compensation, awards, rights of action and proceeds, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorney's fees, apply the same on any indebtedness secured hereby. Trustors agree to execute such further assignments of any compensation, award, damage, and rights of action and proceeds as Beneficiary or Trustee may require.

4. At any time and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Deed of Trust and the Note for endorsement (In case of full reconveyance for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in subordination or other agreement affecting this Deed of Trust or the lien or charge thereof; (d) reconvey, without warranty, all or part of said property. The grantee in any reconveyance may be described as "the person or persons entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustors agree to pay Trustee's fees for any of the services mentioned in this paragraph.

5. As additional security, Trustors hereby give to and confer upon Beneficiary the right, power and authority, and hereby constitute and appoint Beneficiary attorney in fact during the continuance of this Trust, with or without taking possession of the property affected hereby to collect the rents, issues, and profits of said property, (reserving unto Trustors the right, prior to any default by Trustors in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits, as they become due and payable.) Upon any such default, Beneficiary may, at any time without notice, by agent or by receiver, to be appointed by court, Trustors hereby consenting to the appointment of Beneficiary as such receiver and without regard to any security for the indebtedness hereby secured, enter upon and take possession of said property, or any part thereof, and in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. Nothing contained herein, not the exercise of the right by Beneficiary to collect, shall be, or be construed to be, an affirmation by Beneficiary of any tenancy, lease or option, or an assumption of liability under or a subordination of the lien or charge of this Deed of Trust to any such tenancy, lease, or option.

6. The entering upon and taking possession of said property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking of damage of said property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

7. The discontinuance or failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiary of any default shall not constitute a waiver of any other or subsequent default.

8. In the event of the passage, after the date of this Deed of Trust, of any law of the State of Utah, directing from the value of land for the purpose of taxation any lien thereon, or taxing such lien or the owner or holder of the same, or changing in any way the laws for the taxation of Deeds of Trust or debts secured by Deeds of Trust for state or local purposes, or the manner of the collection of any such taxes, so as to affect this Deed of Trust, the Beneficiary or the Assignee of this Deed of Trust and of the debt which it secures, shall have the right to give 30 days notice to the owner of said land requiring the payment of the debt secured hereby, and it is hereby agreed that if such notice be given, the said debt shall become due, payable and collectable at the expiration of the said 30 days.

9. Time is of the essence hereof. Upon default by Trustors in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause said property to be sold to satisfy the obligations hereof, and Trustee shall file such notice for record in each county wherein said property or some part of parcel thereof is situated. Beneficiary also shall deposit with Trustee, the Note and all documents evidencing expenditures secured hereby.

10. After the lapse of such time as may then be required by law following the recording of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustors, shall sell said property on the date and at the time and place designated in said notice of sale and in accordance with the laws of the State of Utah.

11. Upon the occurrence of any default hereunder, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Deed of Trust in the manner provided by law and Trustors agree to pay Beneficiary or Trustee, the costs and a reasonable sum for attorney's fees, whether Beneficiary or trustee shall have paid for procuring an abstract or other deed and also a reasonable fee for Trustee. All moneys herein agree to be paid shall be secured hereby.

12. In the event suit is instituted to effect foreclosure of this Deed of Trust the Trustee and or Beneficiary shall as a matter of right and without regard to the sufficiency of the security of or waste or danger of misapplication of any of the property of the Trustors, be entitled forthwith to have a receiver appointed of all the property described in this Deed of Trust, and the Trustors hereby expressly consent to the appointment of a receiver by any court of competent jurisdiction and expressly stipulates and agrees that such receiver may remain in possession of the property until the final determination of such suit or proceeding. Trustors hereby expressly consent to the appointment of Beneficiary as such receiver.

13. Beneficiary may appoint a successor Trustee at any time by filing for record in the office of the County Recorder of each county in which said property or some part thereof is situated, a substitution of Trustee. From the time the substitution is filed for record, the new Trustee shall succeed to all the powers, duties, authority and title of the Trustee named herein or of any successor Trustee. Each such substitution shall be executed and acknowledged, and notice thereof shall be given and proof thereof made as provided by law.


14. This Deed of Trust shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. All obligations of Trustors hereunder are joint and several. The term "Beneficiary" shall mean the owner and holder, including any pledge, of the Note secured hereby. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

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

16. Possession of the water shares shall be transferred to Beneficiary at closing.

17. This Deed of Trust shall be construed according to the laws of the State of Utah.

Kaysville Diner, LLC

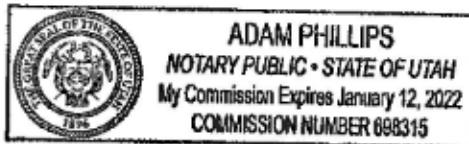
By: 
Jason Sanders, Member

ACKNOWLEDGMENT

STATE OF UTAH)
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COUNTY OF DAVIS)

On the 3rd day of August, 2020, before me, Adam Phillips, a notary public, personally appeared Jason Sanders who is personally known to me or who proved to me his/hor identity through satisfactory evidence and who by me duly sworn did say that he/she is the Managing Member of Kaysville Diner, LLC and that said document was signed by him/her in behalf of said company by authority of its operating agreement and said acknowledged to me that said company executed the same.

NOTARY PUBLIC
Residing at: Morgan, UT
My Commission Expires: 1/12/22



File No. 164112

**EXHIBIT "A"
LEGAL DESCRIPTION**

All of Lot 1, OLDE SHOP SUBDIVISION, a Subdivision, according to the official plat thereof; Part of Section 34, Township 4 North, Range 1 West, Salt Lake Base and Meridian.

11-299-0001