

WHEN RECORDED, RETURN TO:

Mitchell Barlow & Mansfield, P.C.  
Attn: Michael Black  
Nine Exchange Place, Suite 600  
Salt Lake City, UT 84111

**DEED OF TRUST  
WITH ASSIGNMENT OF LEASES AND RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING**

THIS DEED OF TRUST WITH ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this “Deed of Trust”) is executed effective as of October 5, 2022 by AFEW1 Limited Liability Company, a Utah limited liability company with an address of 5255 West 11000 North, Suite 125, Highland, Utah 84003 (“Trustor”), to Cottonwood Title Insurance Agency, having an address of 950 West 800 North, Orem, Utah 84057 (“Trustee”), for the benefit of HVAF2 LLC, a Utah limited liability company (“Beneficiary”), with an address of 5255 West 11000 North, Suite 125, Highland, Utah 84003.

1. **GRANT IN TRUST.** For the purposes and upon the terms and conditions in this Deed of Trust, Trustor irrevocably grants, conveys and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, Trustor’s interest in: (a) all real property located in Utah County, Utah, and described on Exhibit A attached hereto and all improvements located thereon; (b) all easements, rights-of-way and rights used in connection with or as a means of access to any portion of such real property; (c) all tenements, hereditaments and appurtenances thereof and thereto; (d) all water rights attached or appurtenant to such real property; and (e) all additions and accretions thereto, and all awards or payments made for the taking of all or any portion of such real property by eminent domain or any proceeding or purchase in lieu thereof, or any damage to any portion of such real property (collectively, the “Subject Property”).

2. **OBLIGATIONS SECURED.** Trustor makes this grant and assignment for the purpose of securing the following obligations (each, a “Secured Obligation” and collectively, the “Secured Obligations”):

2.1 payment to Beneficiary of all sums at any time owing and performance of all other obligations arising under or in connection with that certain Secured Promissory Note dated as of the date hereof in the original principal amount of \$8,183,638, with interest, late fees, and all other amounts as provided therein, executed by Trustor and payable to Beneficiary or its order; and

2.2 payment and performance of all obligations of Trustor under this Deed of Trust (and together with the Note, collectively, the “Loan Documents”), together with all advances, payments or other expenditures, mandatory or discretionary, made by Beneficiary or Trustee as or for the payment or performance of any such obligations of Trustor or Borrower.

### 3. ASSIGNMENT OF LEASES AND RENTS.

3.1 Assignment. For the purposes and upon the terms and conditions set forth herein, Trustor irrevocably assigns to Beneficiary all of Trustor's right, title and interest in, to and under all leases, licenses, management agreements, rental agreements and other agreements of any kind relating to the use or occupancy of any of the Subject Property, whether existing as of the date hereof or at any time hereafter entered into, together with any and all other rents, issues and profits of the Subject Property (collectively, "Rents"). This is an absolute assignment, not an assignment for security only.

3.2 License. Beneficiary confers upon Trustor a license ("License") to collect and retain the Rents as, but not before, they come due and payable, until the occurrence of any Default. Upon the occurrence of any Default, the License shall be automatically revoked, and Beneficiary or Trustee may, at Beneficiary's option and without notice, either in person or by agent, with or without bringing any action, or by a receiver to be appointed by a court: (a) enter, take possession of, manage and operate the Subject Property or any part thereof; (b) do any acts which Beneficiary or Trustee deems proper to protect the security hereof; and (c) either with or without taking possession of the Subject Property, in its own name, sue for or otherwise collect and receive all Rents, including those past due and unpaid, and apply the same in accordance with the provisions of this Deed of Trust.

### 4. SECURITY AGREEMENT AND FIXTURE FILING.

4.1 Grant of Security Interest. Trustor hereby grants and assigns to Beneficiary a security interest, to secure payment and performance of all of the Secured Obligations, in all personal property located on or used in connection with the Subject Property, including but not limited to furniture, fixtures, equipment, furnishings, appliances, and window coverings. As to all of the foregoing personal property, which is or which hereafter becomes a "fixture" under applicable law, this Deed of Trust constitutes a fixture filing under the Utah Uniform Commercial Code, as amended or recodified from time to time ("UCC").

4.2 Rights of Beneficiary on Default. Upon the occurrence of a Default (hereinafter defined) under this Deed of Trust, Beneficiary shall have all the rights of a "Secured Party" under the UCC or otherwise at law.

### 5. RIGHTS AND DUTIES OF THE PARTIES.

5.1 Title. Trustor warrants that, except as disclosed to Beneficiary prior to the date hereof in a writing which refers to this warranty, Trustor lawfully possesses and holds fee simple title to the Subject Property without limitation on the right to encumber, as herein provided, and that this Deed of Trust is a first priority, valid lien on the Subject Property and all of Trustor's interest therein.

5.2 Taxes and Assessments. Trustor shall pay prior to delinquency all taxes, assessments, levies and charges imposed by any public or quasi-public authority or utility company which are or which may become a lien upon or cause a loss in value of the Subject Property or any interest therein. Promptly upon request by Beneficiary, Trustor shall furnish to Beneficiary satisfactory evidence of the payment of all of the foregoing. Beneficiary is hereby authorized to

request and receive from the responsible governmental and non-governmental personnel written statements with respect to the accrual and payment of any of the foregoing.

5.3 Performance of Secured Obligations. Trustor shall promptly pay and perform each Secured Obligation when due.

5.4 Liens, Encumbrances and Charges. Trustor shall immediately discharge any lien on the Subject Property not approved by Beneficiary in writing. Trustor shall pay when due all obligations secured by or reducible to liens and encumbrances which shall now or hereafter encumber the Subject Property, whether senior or subordinate hereto, including without limitation, any mechanics' liens.

5.5 Due on Sale or Encumbrance of Property or Sale of Business. If the (i) Subject Property or any interest therein shall be sold, transferred mortgaged, assigned, or encumbered, whether voluntarily, involuntarily or by operation of law, or (ii) the sale, assignment or transfer of substantially all of the assets and/or equity in Trustor, without Beneficiary's prior written consent, THEN all Secured Obligations shall automatically and immediately become due and payable in full.

## 6. **DEFAULT PROVISIONS.**

6.1 Default. The occurrence of any of the following shall constitute a "Default" under this Deed of Trust:

- (a) Trustor or any other loan party shall fail to pay when due any principal, interest, fees or other Secured Obligations payable under any of the Loan Documents;
- (b) any default in the performance of or compliance with any obligation, agreement or other provision contained herein, and with respect to any such default which by its nature can be cured, such default shall continue for a period of ten (10) days from its occurrence; or
- (c) Trustor breaches the terms of Section 5.5 above.

6.2 Rights and Remedies. Upon the occurrence of any Default, and at any time thereafter, Beneficiary and Trustee shall have all the following rights and remedies:

- (a) With or without notice, to declare all Secured Obligations immediately due and payable, with the imposition of the late fee and default interest set forth in the Note;
- (b) With or without notice, and without releasing Trustor from any Secured Obligation, and without becoming a mortgagee in possession, to cure any breach or Default of Trustor and, in connection therewith, to enter upon the Subject Property and do such acts and things as Beneficiary or Trustee deem necessary or desirable to protect the security hereof, including, without limitation: (i) to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or the rights or powers of Beneficiary or Trustee under this Deed of Trust; (ii) to pay, purchase, contest or compromise any encumbrance, charge, tax, assessment, lien or claim of lien which, in the reasonable

judgment of either Beneficiary or Trustee, is or may be senior in priority to this Deed of Trust, the reasonable judgment of Beneficiary or Trustee being conclusive as between the parties hereto; (iii) to obtain insurance and to pay any premiums or charges with respect to insurance required to be carried under this Deed of Trust; or (iv) to employ counsel, accountants, contractors and other appropriate persons;

(c) To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this instrument as a mortgage or to obtain specific enforcement of the covenants of Trustor hereunder, and Trustor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subparagraph, Trustor waives the defense of laches and any applicable statute of limitations;

(d) To apply to a court of competent jurisdiction for and to obtain appointment of a receiver of the Subject Property as a matter of strict right and without regard to the adequacy of the security for the repayment of the Secured Obligations, the existence of a declaration that the Secured Obligations are immediately due and payable, or the filing of a notice of default, and Trustor hereby consents to such appointment;

(e) To enter upon, possess, manage and operate the Subject Property or any part thereof;

(f) To cause the Subject Property to be sold by Trustee to satisfy the Secured Obligations through the exercise of the non-judicial power of sale granted herein. Except as required by law, neither Trustor nor any other person or entity other than Beneficiary shall have the right to direct the order in which the Subject Property is sold;

(g) To resort to and realize upon the security hereunder and any other security now or later held by Beneficiary concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both.

Upon sale of the Subject Property at any judicial or non-judicial foreclosure, Beneficiary may credit bid (as determined by Beneficiary in its sole and absolute discretion) all or any portion of the Secured Obligations. In determining such credit bid, Beneficiary may, but is not obligated to, take into account all or any of the following: (i) appraisals of the Subject Property as such appraisals may be discounted or adjusted by Beneficiary in its sole and absolute underwriting discretion; (ii) expenses and costs incurred by Beneficiary with respect to the Subject Property prior to foreclosure; (iii) expenses and costs which Beneficiary anticipates will be incurred with respect to the Subject Property after foreclosure, but prior to resale, including, without limitation, the costs of any structural reports, hazardous waste reports or any remediation costs related thereto; (iv) anticipated discounts upon resale of the Subject Property as a distressed or foreclosed property; and (v) such other factors or matters that Beneficiary deems appropriate. In regard to the above, Trustor acknowledges and agrees that: (w) Beneficiary is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (x) this Section does not impose upon Beneficiary any additional obligations that are not imposed by law at the time the credit bid is made; (y) the amount of Beneficiary's credit bid need not have any relation to any loan-to-value

ratios specified in the Loan Documents or previously discussed between Trustor and Beneficiary; and (z) Beneficiary's credit bid may be higher or lower than any appraised value of the Subject Property. Notwithstanding anything herein to the contrary, any deficiency judgment shall be rendered in accordance with the provisions set forth in Utah Code § 57-1-32.

6.3 Application of Foreclosure Sale Proceeds. Except as may be otherwise required by applicable law, after deducting all costs, fees and expenses of Trustee, and of this trust, including, without limitation, cost of evidence of title and attorneys' fees in connection with sale and costs and expenses of sale and of any judicial proceeding wherein such sale may be made, all proceeds of any foreclosure sale shall be applied: (a) to payment of all sums expended by Beneficiary under the terms hereof and not then repaid, with accrued interest at the rate of interest specified in the Note to be applicable upon default, on or after maturity, or acceleration of the Note; (b) to payment of all other Secured Obligations; and (c) the remainder, if any, to the person or persons legally entitled thereto.

6.4 Costs, Expenses and Attorneys' Fees. Trustor agrees to pay to Beneficiary immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including court costs and reasonable attorneys' fees expended or incurred by Trustee or Beneficiary pursuant to this Article 6, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Beneficiary or any other person) relating to Trustor or in any way affecting any of the Subject Property or Beneficiary's ability to exercise any of its rights or remedies with respect thereto.

6.5 Power to File Notices and Cure Defaults. Trustor hereby irrevocably appoints Beneficiary and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest, to prepare, execute and file or record any document necessary to create, perfect or preserve Beneficiary's security interests and rights in or to any of the Subject Property, and upon the occurrence of an event, act or omission which, with notice or passage of time or both, would constitute a Default, Beneficiary may perform any obligation of Trustor hereunder.

6.6 Remedies Cumulative; No Waiver. All rights, powers and remedies of Beneficiary and Trustee hereunder are cumulative and are in addition to all rights, powers and remedies provided by law or in any other agreements between Trustor and Beneficiary. No delay, failure or discontinuance of Beneficiary in exercising any right, power or remedy hereunder shall affect or operate as a waiver of such right, power or remedy; nor shall any single or partial exercise of any such right, power or remedy preclude, waive or otherwise affect any other or further exercise thereof or the exercise of any other right, power or remedy.

## 7. MISCELLANEOUS PROVISIONS

7.1 Execution of Documents. Trustor agrees, upon demand by Beneficiary or Trustee, to execute any and all documents and instruments required to effectuate the provisions hereof.

7.2 Notices. All notices, requests and demands which Trustor or Beneficiary is required or may desire to give to the other party must be in writing, delivered to Beneficiary and

to Trustor at their respective addresses set forth in the introductory paragraph of this Deed of Trust, or at such other address as either party shall designate by written notice to the other party in accordance with the provisions hereof.

7.3 Successors: Assignment. This Deed of Trust shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto; provided however, that this Section does not waive the provisions of the Section hereof entitled "Due on Sale or Encumbrance."

7.4 Severability of Provisions. If any provision of this Deed of Trust shall be held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Deed of Trust.

7.5 Governing Law. This Deed of Trust shall be governed by and construed in accordance with the laws of the State of Utah.

7.6 **WAIVER OF RIGHT TO TRIAL BY JURY.** EACH PARTY TO THIS DEED OF TRUST HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE MODIFICATION HEREOF OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THE NOTE (AS NOW OR HEREAFTER MODIFIED) OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION IS NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION, IF BROUGHT TO TRIAL, SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS DEED OF TRUST MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF ANY RIGHT THEY MIGHT OTHERWISE HAVE TO TRIAL BY JURY.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the date first set forth above.

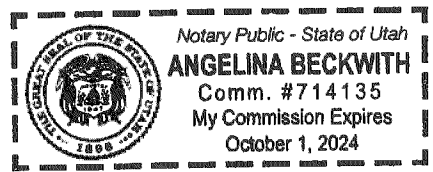
AFEW1 LIMITED LIABILITY COMPANY

By: [Signature]  
Name: Chad Christofferson  
Title: Manager

STATE OF UTAH                    )  
  :SS  
UTAH COUNTY                    )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of October, 2022 by Chad Christofferson, as the Manager of AFEW1 Limited Liability Company, who acknowledged to me that he duly signed the foregoing document.

[Signature]  
NOTARY PUBLIC



**EXHIBIT A**  
(Description of Property)

**Legal Description of the Property**

That certain real property located in Utah County, State of Utah, more particularly described as follows:

Beginning at a point which is South 89°53'29" East along the section line 426.31 feet and South 2800.40 feet from the Northwest corner of Section 22, Township 5 South, Range 1 East, Salt Lake Base and Meridian; thence S 89°06'00" E 53.00 feet to a point of curvature; thence along an arc 23.59 feet to the right, having a radius of 15.00 feet, the chord bears N 45°57'19" E 21.23 feet to a point on the southern right of way line of 350 South; thence S 88°56'04" E 570.12 feet to a point of curvature; thence along an arc 31.37 feet to the right, having a radius of 20.00 feet, the chord bears S 43°59'45" E 28.25 feet more or less to the western right of way line of 1100 West; thence along said right of way the following five (5) calls: 1) S 0°56'33" W 140.54 feet; 2) along an arc 114.04 feet to the right, having a radius of 710.50 feet, the chord bears S 5°32'27" W 113.92 feet; 3) S 10°08'21" W 120.25 feet; 4) along an arc 126.73 feet to the left, having a radius of 789.50 feet, the chord bears S 5°32'27" W 126.59 feet; 5) S 0°56'33" W 9.86 feet to a point of curvature; thence along an arc 31.45 feet to the right, having a radius of 20.00 feet, the chord bears S 46°00'15" W 28.31 feet; thence S 0°50'57" W 60.49 feet more or less to the southern right of way line of 450 South; thence N 88°56'04" W 531.16 feet to a point of curvature; thence along an arc 23.61 feet to the left, having a radius of 15.00 feet, the chord bears S 45°58'58" W 21.24 feet; thence N 89°06'00" W 53.00 feet; thence N 0°54'00" E 609.42 feet to the POINT OF BEGINNING.

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