

WHEN RECORDED MAIL TO:

Ent 555482 Bk 1504 Pg 169 - 173  
MARCY M. MURRAY, Recorder  
WASATCH COUNTY CORPORATION  
2025 Jan 31 04:43PM Fee: \$40.00 CO  
For: Cottonwood Title Insurance Agency, In  
ELECTRONICALLY RECORDED

TSN & AJN HOLDINGS LLC  
3250 E Tere Street  
Phoenix, AZ 85044

178615- MCP

Space Above This Line for Recorder's Use

TIN 00-0020-5642

**FIRST AMENDMENT TO DEED OF TRUST,  
PROMISSORY NOTE, LOAN AGREEMENT  
AND GUARANTY**

This First Amendment to the Deed of Trust, Promissory Note, Loan Agreement and Guaranty (this "Amendment") is made and entered into this 29th day of January 2025 ("Effective Date"), by and between Russ Smith ("Borrower"), RB50, LLC, A Delaware limited liability company which assigned the loan to TSN & AJN Holdings LLC, a Utah limited liability company ("Lender"), and Russ Smith, an individual ("Guarantor"), regarding the loan relating to the real property located approximately at 9500 North Uinta Drive, Kamas, UT 84036. Lender, Borrower and Guarantor may be referred to individually as a "Party" or collectively as the "Parties," as necessary in this Amendment.

**RECITALS**

- A. WHEREAS, on or about May 31, 2024, Lender and Borrower entered into that certain secured Promissory Note (the "Note") pursuant to which Lender lent \$3,200,000.00 to Borrower (the "Loan").
- B. WHEREAS, Borrower promised to repay the monies advanced by Lender on the terms and conditions set forth in the Note;
- C. WHEREAS, the Note is secured in 1<sup>st</sup>-lien position by a Deed of Trust encumbering real property ("Trust Deed") and recorded with the county recorder's office as entry number 546008, book 1477, page 611-633 of Wasatch County Corporation;
- D. WHEREAS, obligations arising out of the Note, Trust Deed, and other documents related to the Loan are personally guaranteed pursuant to the terms of a Guaranty, dated as of May 31, 2024, by Guarantor and in favor of Lender (the "Guaranty").

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants, terms, conditions, and obligations herein set forth, the Parties agree as follows:

**AGREEMENT**

1. **Definition of Certain Terms.** The Note, Trust Deed, Guaranty and all other documents between Lender, Borrower and/or Guarantor related to the Loan and the funds advanced by Lender pursuant thereto are herein collectively referred to as the "Loan Documents".
2. **Amendments.** The Loan Documents are hereby amended to reflect an increase in the principal amount of the Loan to \$3,400,000.00 as of the Effective Date. Commencing as of the Effective Date and continuing until all amounts owed pursuant to the Loan Documents have been

repaid in full, Borrower shall pay interest as outlined in the Loan Documents. As part of this amendment, Borrower shall pay points of \$10,000.00 and interest and any extension points paid in the future shall be based upon the amended principal amount of the Loan of \$3,400,000.00.

3. Application and Reaffirmation of Note and Loan Documents. Except for the specific terms set forth herein, all terms, conditions, covenants and agreements set forth in the Loan Documents are hereby reaffirmed and shall remain in full force and effect. This Amendment is not intended to and shall not be construed to create or constitute a release or relinquishment of the Loan Documents, and shall not affect, the liens, security interests and rights thereunder, all of which are hereby ratified, confirmed, renewed and extended in all respects. As of the date first set forth above, Borrower and Guarantor hereby reaffirm to Lender each of the representations, warranties, covenants and agreements of Borrower set forth in the Loan Documents with the same force and effect as if each were separately stated herein and made as of the date hereof.

4. No Defenses or Claims. Borrower and Guarantor acknowledge and agree that neither Borrower nor Guarantor has any defenses, counterclaims, offsets, cross-complaints, causes of action, rights, claims or demands of any kind or nature whatsoever relating to any of the Loan Documents, directly or indirectly, including without limitation, any usury, unconscionability or lender liability claims or defenses arising out of any loan, any of the Loan Documents, or any past or present relationship between or among Borrower, Lender, Guarantor or any of their respective past, present and/or future parent, subsidiary and affiliated entities and, with respect to each of the foregoing, their respective past and present officers, directors, shareholders, partners, limited partners, members, managers, representatives, principals, owners, affiliates, attorneys, accountants, agents and employees, and their successors, heirs and assigns and each of them, that can be asserted either to reduce or eliminate all or any part of Borrower's and/or Guarantor's liability to repay the Loan, to repay the amounts owed pursuant to the Loan Documents and to perform the obligations arising out of such documents. Borrower and Guarantor further acknowledge that to the extent that any such claim should in fact exist, including without limitation, any usury, unconscionability or lender liability claim, such claim(s) is/are being and hereby is/are fully, finally and irrevocably released by Borrower and Guarantor. Borrower and Guarantor acknowledge that the release granted above was and is a material inducement to Lender to enter into this Amendment and to make the advances of principal that gave rise to this Amendment.

5. Representations and Warranties of Borrower and Guarantor. To induce Lender to enter into this Amendment, Borrower and Guarantor hereby make the following representations and warranties, each of which shall be deemed to be a continuous representation and warranty made as of the date first set forth above and so long as any of Borrower's or Guarantor's indebtedness under the Loan Documents remains outstanding:

a. No Consent. No consent of any person is required under any contract, license, permit, approval or law binding on any of the persons referred to herein as Borrower or Guarantor in connection with the execution, delivery or performance of this Amendment.

b. Power and Authority. The execution, delivery and performance hereof by Borrower and Guarantor is not in contravention of law, or any indenture, agreement or undertaking to which any of the persons referred to herein as Borrower or Guarantor is a party to or by which any of the persons referred to herein as Borrower or Guarantor is bound.

c. Valid and Binding Obligations. The execution and delivery by Borrower and Guarantor of this Amendment and any other documents required hereunder have been duly and properly made and authorized, and when executed and delivered by Borrower and Guarantor will constitute the legal, valid, and binding obligations of Borrower and Guarantor enforceable in accordance with their respective terms.

d. No Defenses. Borrower's and Guarantor's obligations to Lender, as amended hereby, under the Loan Documents are valid and enforceable and neither Borrower nor Guarantor has any defenses, offsets, counterclaims or other adverse claims of any kind whatsoever against Lender with respect to the obligations represented by the Loan Documents, or any action or inaction of Lender with respect thereto.

e. No Default Caused by Entry into Agreement. The execution and delivery of this Amendment and the consummation of the transactions herein contemplated will not violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on any of the persons referred to herein as Borrower or Guarantor, or conflict with or constitute a default under or result in the creation or imposition of any lien pursuant to the terms of any indenture, instrument or agreement to which any of the persons referred to herein as Borrower or Guarantor is a signatory or otherwise bound.

f. No Litigation. There are no actions, suits or proceedings at law or in equity by or before any governmental authority or person now pending against or affecting the collateral described in the Trust Deed and Loan Documents or any of the persons referred to herein as Borrower or Guarantor.

g. No Bankruptcy Filing. None of the persons referred to herein as Borrower or Guarantor is a debtor in any outstanding action or proceeding pursuant to any bankruptcy law and none has, upon the effectiveness of this Amendment, any current intent either to file a petition by it under any bankruptcy law or the liquidation of all or any portion of its assets or property, and none of the persons referred to herein as Borrower or Guarantor is aware that any other person has any current intent to file against any such person a petition under any bankruptcy law.

6. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Counterparts and signatures transmitted by facsimile or electronic mail shall be valid, effective and enforceable as originals.

7. Entire Agreement. As amended hereby, the Loan Documents and this Amendment, embody the entire agreement and understanding between Borrower and Lender and supersede all prior agreements and understandings between said parties relating to the subject matter thereof.

[Signatures to follow on next page.]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed and delivered. as set forth below:

**BORROWER:**

Date: 1/31/25

Russ Smith

By: 

Name: Russ Smith

Title: \_\_\_\_\_

Date: 1/31/25

**GUARANTOR:**

By: 

Name: Russ Smith, Individually

STATE OF UTAH

)

COUNTY OF Salt Lake

: ss.  
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On the 31<sup>st</sup> day of January, 2025, personally appeared before me, Russ Smith, the signer of the above instrument, who duly acknowledged to me that they executed the same.

  
NOTARY PUBLIC



MICHAEL PAUL CHABRIES  
NOTARY PUBLIC-STATE OF UTAH  
My Commission Expires August 27, 2027  
COMMISSION NUMBER 732683

**PARCEL 1:**

Lot 9S-1, TUHAYE PHASE 9 SOUTH SUBDIVISION, according to the official plat thereof as recorded in the office of the Wasatch County Recorder.

**PARCEL 1A:**

Easement Agreement for Roadway and Utilities recorded April 29, 2002 as Entry No. 244333 in Book 557 at Page 369 and Agreement dated June 28, 2004 between Exchange Lands Management Company, LLC, a Utah limited liability company, Tuhaye, LLC, a Utah limited liability company, and Tuhaye Golf, LLC, a Utah limited liability company and Ameagle PC Holdings, Inc., a Delaware corporation, pursuant to that previous Agreement dated March 2, 2001, dealing with road and utility access through and between the parties' respective properties and sharing of costs and expenses associated with roads and utilities, recorded July 8, 2004 as Entry No. 272907 in Book 702 at Page 168, Wasatch County Recorder's Office, and recorded July 8, 2004 as Entry No. 703892 in Book 1633 at Page 491, Summit County Recorder's Office.

Tax Parcel No. 00-0020-5642

Property Address: 9500 North Uinta Drive, Kamas, UT 84036