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BY AND WHEN RECORDED  
RETURN TO:

Cox, Castle & Nicholson LLP  
2029 Century Park East, Suite 2100  
Los Angeles, California 90067  
Attn: Caroline W. Dreyfus

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

THIS CONSTRUCTION DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT, AND FIXTURE FILING ("Deed of Trust") is made as of May 19, 2022, by and among SALT LAKE CITY PROPERTIES I, LLC, a Delaware limited liability company, herein called TRUSTOR, FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation, herein called TRUSTEE; and PACIFIC WESTERN BANK, a California state-chartered bank, herein called BENEFICIARY. This Deed of Trust constitutes a "construction mortgage" within the meaning of Utah Code Annotated Section 70a-9a-334(8).

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and warrants to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, the real property located in Salt Lake County, State of Utah, described in Exhibit "1" attached hereto and by this reference incorporated herein ("Property"), free and clear of all liens, encumbrances and other matters except those described on Exhibit "2" attached hereto ("Permitted Exceptions").

TOGETHER WITH all rents, issues, profits, royalties, income and other benefits derived from the Property (collectively, "rents"), subject to the license hereinafter given to Trustor to collect and apply such rents;

TOGETHER WITH all leases or subleases covering the Property or any portion thereof now or hereafter existing or entered into, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto, and all water rights and shares of stock evidencing the same;

TOGETHER WITH any and all building and improvements now or hereafter erected thereon, including, but not limited to, the fixtures, attachments, appliances, equipment, machinery (the "Fixtures") and other articles attached to said buildings and improvements (collectively, "Improvements");

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National Commercial Services  
NCS-1121666-CO**

TOGETHER WITH all general intangibles relating to the development or use of the Property including, but not limited to, all governmental permits, licenses, approvals or authorizations relating to construction on the Property, or relating to the formation or approval of the Improvements on and to the Property and their operation, all names under or by which the Property or any Improvements on the Property may at any time be operated or known, and all rights to carry on business under such names or any variant thereof and all trademarks and goodwill in any way relating to the Property (collectively, "General Intangibles");

TOGETHER WITH all right, title and interest of Trustor in and to all tangible personal property ("Personal Property") owned by Trustor and now or at any time hereafter located on or at the Property and used solely in connection therewith, including, but not limited to: all goods, machinery, tools, insurance proceeds (including insurance proceeds for insurance not required under the terms of this Deed of Trust), equipment (including equipment for fire sprinklers and alarms, air conditioning, heating, refrigerating, electronic monitoring, entertainment, recreation, window or structural cleaning rigs, maintenance, exclusion of vermin or insects, removal of dust, refuse or garbage, and all other equipment of every kind), lobby and all other indoor and outdoor furniture (including table, chairs, planters, desks, sofas, shelves, lockers, and cabinets), furnishings, appliances, water heaters, and incinerators, rugs, carpets and other floor coverings, draperies and drapery rods and brackets, awnings, window shades, venetian blinds, curtains, lamps, chandeliers and other lighting fixtures and office maintenance and other supplies; and TOGETHER WITH all the estate, interest, right, title, other claim or demand, including claims or demands with respect to the proceeds of insurance (including insurance proceeds for insurance not required under the terms of this Deed of Trust) in effect with respect thereto which Trustor now has or may hereafter acquire in the Property, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the foregoing, including, without limitation, any awards resulting from a change of grade of streets, and awards for severance damages.

The entire estate, property and interest hereby conveyed to Trustee may hereafter be referred to collectively as the "Trust Estate."

This Deed of Trust is executed for the purpose of securing the following:

A. Payment of indebtedness in the principal amount up to EIGHTY-FOUR MILLION ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$84,150,000.00) with interest thereon, evidenced by the promissory note of even date herewith executed by Trustor ("Note"), which has been delivered to and is payable to the order of Beneficiary, and any and all modifications, extensions and renewals thereof.

B. Performance of each agreement and covenant of Trustor under that certain Loan Agreement dated of even date herewith between Trustor and Beneficiary ("Loan Agreement"), the provisions of which are hereby incorporated herein by reference.

C. Performance of each agreement of Trustor under the Loan Documents, as such term is defined in the Loan Agreement (the "Loan Documents").

D. Payment of all sums advanced by Beneficiary under or pursuant to the terms hereof, with interest thereon at the Default Rate, as such term is defined in the Loan Agreement (the "Default Rate").

E. Performance of all other obligations and payment of all other liabilities of Trustor to Beneficiary, whether now or hereafter existing.

This Deed of Trust, the Note, the Loan Agreement, and any other documents or instruments executed in connection herewith or therewith, or given to evidence or further secure the payment and performance of any obligation secured hereby are hereinafter sometimes referred to collectively as the "Loan Documents."

**TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:**

**ARTICLE I**

1.1 Payment of Secured Obligations. Trustor will pay when due the principal of and the interest on the indebtedness evidenced by the Note, all charges, fees and all other sums as provided in the Loan Documents, and the principal of and interest on any future advances secured by this Deed of Trust.

1.2 Maintenance, Repair and Alterations. Trustor will (a) keep the Trust Estate in good condition and repair; (b) not remove, demolish or substantially alter (except such alterations as may be required by laws, ordinances or regulations) any of the Improvements; (c) complete promptly and in a good and workmanlike manner any building or other improvement which may be constructed on the Property and promptly restore in like manner any Improvement which may be damaged or destroyed thereon, and pay when due all claims for labor performed and materials furnished therefor, and comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Trust Estate or any part thereof or requiring any alterations or improvements; (d) not commit or permit any waste or deterioration of the Trust Estate, and keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair; (e) comply with all provisions of the leases with tenant, and not commit, suffer or permit any act to be done in or upon the Trust Estate in violation of any law, ordinance or regulation; and (f) diligently and promptly perform all obligations of Trustor under all easements, declarations or similar instruments and agreements which are or may be established to allow satisfactory ingress to and egress from the Property or operation of the Trust Estate.

1.3 Required Insurance. Trustor shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Trustor and the Property as required pursuant to the Loan Agreement. Except as they relate to the role of the Trustee, if any provisions contained in this Deed of Trust regarding insurance conflict with the Loan Agreement, the provisions of the Loan Agreement shall govern.

1.4 Assignment of Policies Upon Foreclosure. In the event of foreclosure of this Deed of Trust or other transfer of title or assignment of the Trust Estate in extinguishment, in whole or in part, of the debt secured hereby, all right, title and interest of Trustor in and to all policies of

insurance required by this Deed of Trust will inure to the benefit of and pass to the successor in interest to Trustor or the purchaser or grantee of the Trust Estate.

**1.5 Indemnification; Subrogation; Waiver of Offset.**

(a) If Beneficiary is made a party defendant to any litigation concerning this Deed of Trust or the Trust Estate or any part thereof or interest therein, or the occupancy thereof by Trustor, then Trustor will indemnify, defend and hold Beneficiary harmless from all liability by reason of said litigation, including reasonable attorneys' fees and expenses incurred by Beneficiary in any such litigation, whether or not any such litigation is prosecuted to judgment, except that the foregoing indemnity will not apply to any gross negligence or willful misconduct of Beneficiary. If Beneficiary commences an action against Trustor to enforce any of the terms hereof or because of the breach by Trustor of any of the terms hereof, or for the recovery of any sum secured hereby, Trustor will pay to Beneficiary reasonable attorneys' fees and expenses, and the right to such attorneys' fees and expenses will be deemed to have accrued on the commencement of such action, and will be enforceable whether or not such action is prosecuted to judgment. If Trustor breaches any term of this Deed of Trust, Beneficiary may employ an attorney or attorneys to protect its rights hereunder and, in the event of such employment following any breach by Trustor, Trustor will pay Beneficiary reasonable attorneys' fees and expenses incurred by Beneficiary, whether or not an action is actually commenced against Trustor by reason of breach.

(b) Trustor waives any and all right to claim or recover against Beneficiary, its officers, employees, agents and representatives, for loss of or damage to Trustor, the Trust Estate, Trustor's property or the property of others under Trustor's control from any cause insured against or required to be insured against by the provisions of this Deed of Trust.

(c) All sums payable by Trustor hereunder and under the other Loan Documents will be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Trustor hereunder will in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Trust Estate or any part thereof; (ii) any restriction or prevention of or interference with any use of the Trust Estate or any part thereof; (iii) any title defect or encumbrance or any eviction from the Property or the Improvements or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary or Trustee, or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary or Trustee, or by any court, in any such proceeding; (v) any claim which Trustor has or might have against Beneficiary; (vi) any default or failure on the part of Beneficiary to perform or comply with any of the terms hereof or of any other agreement with Trustor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not Trustor will have notice or knowledge of any of the foregoing. Except as expressly provided herein, and to the extent permitted by law, Trustor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Trustor.

1.6 Taxes and Impositions.

(a) Trustor agrees to pay prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, including, without limitation, non-governmental levies or assessments such as maintenance charges, owner association dues or charges or fees, levies or charges resulting from covenants, conditions and restrictions affecting the Trust Estate, which are assessed or imposed upon the Trust Estate, or become due and payable, and which create, may create or appear to create a lien upon the Trust Estate, or any part thereof, or upon any Personal Property, equipment or other facilities used in the operation or maintenance thereof (all of which taxes, assessments and other governmental and non-governmental charges of like nature are hereinafter referred to collectively as "Impositions"); provided, however, that if, by law, any such Imposition is payable, or may at the option of the taxpayer be paid, in installments, Trustor may pay the same together with any accrued interest on the unpaid balance of such Imposition in installments as the same become due and before any fine, penalty, interest or cost may be added thereto for the nonpayment of any such installment and interest.

(b) If at any time after the date hereof there will be assessed or imposed (i) a tax or assessment on the Trust Estate in lieu of or in addition to the Impositions payable by Trustor pursuant to subparagraph (a) hereof, or (ii) a license fee, tax or assessment imposed on Beneficiary and measured by or based in whole or in part upon the amount of the outstanding obligations secured hereby, then all such taxes, assessments or fees will be deemed to be included within the term "Impositions" as defined in subparagraph (a) hereof, and Trustor will pay and discharge the same as herein provided with respect to the payment of Impositions, or, if Trustor is not legally permitted to pay the same at the option of Beneficiary, all obligations secured hereby together with all accrued interest thereon, will immediately become due and payable.

(c) Subject to the provisions of subparagraph (d) of this Section 1.6, Trustor covenants to furnish Beneficiary, within thirty days after the date upon which any such Imposition would become delinquent, official receipts of the appropriate taxing authority, or other proof satisfactory to Beneficiary, evidencing the payments thereof.

(d) Trustor will have the right before any delinquency occurs to contest or object to the amount or validity of any such Imposition by appropriate legal proceedings, but this will not be deemed or construed in any way as relieving, modifying or extending Trustor's covenant to pay any such Imposition at the time and in the manner provided in this Section 1.6, unless Trustor has given prior written notice to Beneficiary of Trustor's intent to so contest or object to an Imposition, and unless, at Beneficiary's sole option (i) Trustor will demonstrate to Beneficiary's satisfaction that the legal proceedings will conclusively operate to prevent the sale of the Trust Estate, or any part thereof, to satisfy such Imposition prior to final determination of such proceedings; or (ii) Trustor will furnish a good and sufficient bond or surety as requested by and satisfactory to Beneficiary; or (iii) Trustor will have provided a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of such proceedings.

(e) At the request of Beneficiary, or if an Event of Default will have occurred and be continuing, or if Trustor no longer holds title to or management and control of the Property, Trustor will pay to Beneficiary, on the day monthly installments are payable under the Note, until

the Note is paid in full, an amount equal to one-twelfth of the annual Impositions reasonably estimated by Beneficiary to pay the installment of taxes next due on the Trust Estate. In such event Trustor further agrees to cause all bills, statements or other documents relating to Impositions to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Trustor has deposited sufficient funds with Beneficiary pursuant to this Section 1.6, Beneficiary will pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time and for any reason the funds deposited with Beneficiary are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary will notify Trustor and Trustor will immediately deposit an amount equal to such deficiency with Beneficiary. Notwithstanding the foregoing, nothing contained herein will cause Beneficiary to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section 1.6. Beneficiary will not be obliged to pay or allow any interest on any sums held by Beneficiary pending disbursement or application hereunder, and Beneficiary may impound or reserve for future payment of Impositions such portion of such payments as Beneficiary may in its absolute discretion deem proper, applying the balance on the principal of or interest on the obligations secured hereby. Should Trustor fail to deposit with Beneficiary (exclusive of that portion of said payments which has been applied by Beneficiary on the principal of or interest on the indebtedness secured by the Loan Documents) sums sufficient to fully pay such Impositions at least thirty days before delinquency thereof, Beneficiary may, at Beneficiary's election, but without any obligation to do so, advance any amounts required to make up the deficiency, which advances, if any, will be secured hereby and will be repayable to Beneficiary as herein elsewhere provided, or at the option of Beneficiary the latter may, without making any advance whatever, apply any sums held by it upon any obligation of Trustor secured hereby. Should any Event of Default occur or exist on the part of Trustor in the payment or performance of any of Trustor's obligations under the terms of the Loan Documents, Beneficiary may, at any time at Beneficiary's option, apply any sums or amounts in its hands received pursuant hereto, or as rents or income of the Trust Estate or otherwise, upon any indebtedness or obligation of Trustor secured hereby in such manner and order as Beneficiary may elect. The receipt, use or application of any such sums paid by Trustor to Beneficiary hereunder will not be construed to affect the maturity of any indebtedness secured by this Deed of Trust or any of the rights or powers of Beneficiary or Trustee under the terms of the Loan Documents or any of the obligations of Trustor under any of the Loan Documents.

(f) Trustor covenants and agrees not to suffer, permit or initiate the joint assessment of the Property and the Personal Property, or any other procedure whereby the lien of the real property taxes and the lien of the personal property taxes will be assessed, levied or charged to the Trust Estate as a single lien.

(g) If requested by Beneficiary, Trustor will cause to be furnished to Beneficiary a tax reporting service covering the Trust Estate, of the type, duration and with a company satisfactory to Beneficiary.

1.7 Utilities. Trustor will pay when due all utility charges which are incurred by Trustor for the benefit of the Trust Estate or which may become a charge or lien against the Trust Estate for gas, electricity, water or sewer services furnished to the Trust Estate and all other assessments or charges of a similar nature, whether public or private, affecting the Trust Estate or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

1.8 Actions Affecting Trust Estate. Trustor will appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of evidence of title and attorneys' fees, in any such action or proceeding in which Beneficiary or Trustee may appear.

1.9 Actions by Trustee and/or Beneficiary to Preserve Trust Estate. If Trustor fails to make any payment or to do any act in the manner provided in any of the Loan Documents, Beneficiary and/or Trustee, each in its own discretion, without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. In connection therewith (without limiting their general powers) Beneficiary and/or Trustee will have and are hereby given the right, but not the obligation (i) to enter upon and take possession of the Trust Estate; (ii) to make additions, alterations, repairs and improvements to the Trust Estate which they or either of them may consider necessary or proper to keep the Trust Estate in good condition and repair; (iii) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Beneficiary or Trustee; (iv) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of either may affect or appear to affect the security of this Deed of Trust or be prior or superior hereto; and (v) in exercising such powers, to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. Trustor will, immediately upon demand therefor by Beneficiary, pay all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing rights, including, without limitation, costs of evidence of title, court costs, appraisals, surveys and attorneys' fees.

1.10 Survival of Warranties. Except as may be specifically noted therein, all representations, warranties and covenants of Trustor contained herein or in any of the other Loan Documents will survive the close of escrow and funding of the loan evidenced by the Note and will remain continuing obligations, warranties and representations of Trustor during any time when any portion of the obligations secured by this Deed of Trust remain outstanding.

1.11 Eminent Domain. If the Trust Estate, or any part thereof or interest therein, is taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner ("Condemnation"), or should Trustor receive any notice or other information regarding such proceeding, Trustor will give prompt written notice thereof to Beneficiary. Beneficiary will be entitled to all compensation, awards and other payments or relief therefor, up to the amount of Trustor's indebtedness to Beneficiary, and will be entitled at its option to commence, appear in and prosecute in its own name any Condemnation actions or proceedings. Beneficiary will also be entitled to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds awarded to Trustor ("Proceeds") are hereby assigned to Beneficiary and Trustor agrees to execute such further assignments of the Proceeds as Beneficiary and Trustee may require. In the event any portion of the Trust Estate is so taken or damaged, Beneficiary will have the option, in its sole and absolute discretion, to apply all such Proceeds, after deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit), including attorneys' fees, incurred by it in connection with such Proceeds, against any indebtedness secured hereby and in such order as Beneficiary may determine, or to apply all such Proceeds, after such deductions, to the restoration of the Trust Estate upon such conditions as Beneficiary may determine. Such application or release

will not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

1.12 Additional Security. In the event Beneficiary at any time holds additional security for any of the obligations secured hereby, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently herewith or after a sale is made hereunder.

1.13 Appointment of Successor Trustee. Beneficiary may, from time to time by a written instrument executed and acknowledged by Beneficiary, mailed to Trustor and recorded in Salt Lake County and by otherwise complying with the provision of the applicable law of the State of Utah, substitute a successor or successors to the Trustee named herein or acting hereunder.

1.14 Successors and Assigns. This Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their successors and assigns. The term "Beneficiary" will mean the owner and holder of the Note, whether or not named as Beneficiary herein.

1.15 Inspections. Beneficiary, or its agents, representatives, or workmen, are authorized to enter at any reasonable time upon all or any part of the Trustee Estate for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Documents.

1.16 Liens. Trustor will pay and promptly discharge, at Trustor's cost and expense, all liens, encumbrances and charges upon the Trust Estate, or any part thereof or interest therein, except Permitted Exceptions. Trustor will have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided Trustor will first deposit with Beneficiary the amount of the claim plus costs, attorneys' fees and interest, and provided further that Trustor will thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. If Trustor will fail to discharge any such lien, encumbrance or charge or provide such reasonable security, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but will not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such lien by depositing in court a bond for the amount claimed or otherwise giving security for such claim, or in such manner as is or may be prescribed by law.

1.17 Trustee's Powers. At any time, or from time to time, without liability therefor, and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note secured hereby for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of said Trust Estate, Trustee may (i) reconvey any part of said Trust Estate; (ii) consent in writing to the making of any map or plat thereof, (iii) join in granting any easement thereon, or (iv) join in any extension agreement or any agreement subordinating the lien or charge hereto.

1.18 Beneficiary's Powers. Without affecting the liability of any other person liable for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Property not then or theretofore released as security for the full amount of all unpaid obligations, Beneficiary may, from time to time and without notice (i) release any person so liable, (ii) extend the maturity or alter any of the terms of any such obligation, (iii) grant other indulgences, (iv) release or reconvey, or cause to be released or

reconveyed at any time at Beneficiary's option any parcel, portion or all of the Trust Estate, (v) take or release any other or additional security for any obligation herein mentioned, (vi) make arrangements with debtors in relation thereto, or (vii) advance additional funds to protect the security hereof and pay or discharge the obligations of Trustor hereunder or under the Loan Documents and all amounts so advanced, with interest thereon at the Default Rate, will be secured hereby.

1.19 Rent Roll; Financial Statements. Trustor will cause to be delivered to Beneficiary as soon as practicable, but in any event within sixty days after the close of each fiscal year of Trustor (i) a rent roll of the Property in form and substance satisfactory to Beneficiary and certified as true and correct by one of Trustor's general partners, and (ii) a balance sheet of Trustor as at the end of such fiscal year, all certified as to accuracy by an independent certified public accountant or representative of Trustor acceptable to Beneficiary, and an annual operating statement showing in reasonable detail all projected income and expenses of Trustor with respect to the Trust Estate for the next two years.

1.20 Tradenames. At the request of Beneficiary, Trustor will execute a certificate in form satisfactory to Beneficiary listing the tradenames under which Trustor intends to operate the Trust Estate, and representing and warranting that Trustor does business under no other tradenames with respect to the Trust Estate. Trustor will immediately notify Beneficiary in writing of any change in said tradenames, and will, upon request of Beneficiary, execute any additional financing statements and other certificates required to reflect the change in trademark.

1.21 Representation, Warranties and Covenants of Trustor. Trustor hereby represents, warrants and covenants to Beneficiary as follows (with the understanding that Beneficiary is relying upon said representations and warranties, and that all of said representations and warranties will be deemed continuing covenants of Trustor):

(a) Trustor is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority to enter into and execute the Loan Documents and to carry out the provisions of the Loan Documents.

(b) The execution and delivery of the Loan Documents by Trustor, and the consummation of all the transactions contemplated hereby (i) have been duly authorized by all actions required or necessary under the terms and provisions of all applicable governing instruments or otherwise; (ii) create legal, valid and binding obligations on trustor; (iii) to the best of Trustor's knowledge do not conflict with or result in the violation of any valid regulation, order, writ, judgment, injunction, or decree of any court or governmental or municipal instrumentality, or in the breach of or default under any indenture, contract, agreement or other instrument to which Trustor is a party or by which Trustor or its assets may be bound; and (iv) will not result in the creation or imposition of, or be any cause for imposing, any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Trustor other than those created, imposed or required by the Loan Documents.

(c) Trustor is not in default under and has not breached in any material respect any agreement or instrument to which Trustor is a party or by which Trustor may be bound and

there exists no Event of Default or event which, with giving notice or lapse of time, would constitute an Event of Default under any of the Loan Documents.

(d) There are no outstanding or unpaid judgments or arbitration awards against, no actions, suits or proceedings pending or, to the knowledge of Trustor, threatened against or affecting Trustor, or all or any part of the Trust Estate in any court or before any governmental or quasi-governmental body and, to the best of Trustor's knowledge after due inquiry and investigation, Trustor is not in default or violation with respect to any valid rule, regulation, statute, law, ordinance, order, writ, judgment, decree, code, requirement or order of any court or other governmental or municipal department, commission, board, bureau, agency or instrumentality.

(e) Trustor has and will maintain fee simple marketable title to the Property and any and all Improvements thereon free and clear of all liens, charges, claims, options, encumbrances and other matters, excepting only the Permitted Exceptions and the other Loan Documents recorded for the benefit of Beneficiary.

(f) All tax returns, income or otherwise, and reports of Trustor required by law to be filed have been duly filed and all taxes, assessments and other governmental charges upon Trustor or upon its properties or assets or income which are due and payable have been paid and will continue to be so paid.

(g) After the Improvements are constructed, the maintenance and operation of the Improvements and the use thereof are and will be in all respects in compliance with all applicable zoning, environmental protection, use and building codes, laws, regulations, ordinances, and covenants running with the land, including, without limitation, all requirements for parking contained therein.

(h) All utility services and facilities necessary for the construction of the Improvements and the full enjoyment of the Property and the Improvements, including, but not limited to, trash collection, police and fire protection, sewage, water, telephone, natural gas and electrical services, are available to and, upon completion of the construction of the Improvements, will be connected to the Property and in good working order.

(i) Trustor has no knowledge of any activity now or formerly conducted on or about the Property or any substance in, upon or emanating (or which emanated) from the Property in violation of any "Environmental Law." For purposes of this Deed of Trust, "Environmental Law" refers to statutes, rules and regulations, and amendments thereto, effective on or before the date hereof, including, but not limited to, the following laws, and the rules and regulations promulgated thereunder:

- (i) The Clean Water Act;
- (ii) The Toxic Substances Control Act;
- (iii) The Comprehensive Environmental Response, Compensation and Liability Act of 1980;
- (iv) The Hazardous Materials Transportation Act;

- (v) The Solid Waste Disposal Act;
- (vi) The Clean Air Act;
- (vii) The Safe Drinking Water Act;
- (viii) The Resource Conservation and Recovery Act;
- (ix) Noise control and other nuisance acts;
- (x) Federal Water Pollution Control Act; and (xi) All state and local statutes, rules, regulations or ordinances which may deal with any activities or matters which are the subject of the foregoing federal acts or environmental protection or matters pertaining to health, safety and welfare.

(j) To the best of Trustor's knowledge, after due inquiry and investigation, the Property has never been used, nor is it presently used, to generate, manufacture, refine, transport, treat, store, handle or dispose of, nor does the Property contain any, hazardous or toxic substances or wastes, as defined in any applicable Environmental Law, or any other chemical, material, or substance (including, without limitation, asbestos, urea formaldehyde or dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million) exposure to which is prohibited, limited or regulated by any federal, state, county or local authority or which even if not so regulated, may or could pose a hazard to the health and safety of the public or subject the owner of the Property to liability.

(k) Trustor has no knowledge of any violation or alleged violation of any Handicap Access Laws, which Handicap Access Laws will be defined to include the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act of 1990, of rules and regulation from time to time promulgated in an effect under either of such laws, and all other laws, rules and regulations that may from time to time concern and bear your free access to the Trust Estate.

1.22 Covenants Pertaining to Environmental Law. Trustor will promptly notify Beneficiary if Trustor will become aware of any activity conducted on or about the Property, or of any substance in, upon or emanating from the Property in violation of any Environmental Law, in which event Trustor will cause such activity to cease and will remove all such substances from the Property and/or cure such violations promptly after Trustor becomes aware of the same, at Trustor's expense. In the event Trustor fails to do so, Beneficiary may take such actions as may be necessary to cure such violations, and any cost incurred in connection therewith will be paid by Trustor on demand, and if not so paid, will be added to the outstanding principal balance of the Note (even if such addition results in the outstanding principal balance being in excess of the face amount of the Note), will bear interest thereafter until actually paid by Trustor at the Default Rate, and will be secured hereby and by all of the other Loan Documents. Trustor hereby grants to Beneficiary and its agents and employees access to the Property and a license to remove any items deemed by Beneficiary to be in violation of any applicable Environmental Law. In the event Beneficiary has reasonable cause to believe there has been a breach of any of the covenants in this Section 1.22, upon Beneficiary's request, Trustor will provide, at Trustor's sole expense, an inspection or audit of the Property prepared by a licensed hydrogeologist or licensed environmental engineer approved by Beneficiary indicating the presence or absence of any violations of

Environmental Law. If Trustor fails to provide such inspection or audit within thirty days after such request, Beneficiary may order the same, and Trustor hereby grants to Beneficiary and its employees and agents access to the Property and a license to undertake such inspection or audit. The cost of such inspection or audit will be paid by Trustor on demand and, if not so paid, will be added to the outstanding principal balance of the Note (even if such addition results in the outstanding principal balance being in excess of the face amount of the Note), will bear interest thereafter until actually paid by Trustor at the Default Rate, and will be secured hereby and by all of the other Loan Documents. Trustor hereby indemnifies Beneficiary to the extent described in and subject to the provisions of Section 1.22 hereof. During the term of this Deed of Trust, Trustor will not install any Improvements nor permit to be installed any Improvements containing friable asbestos or any substance containing asbestos and will remove the same promptly, upon discovery, at Trustor's sole expense. In the event Trustor fails to do so, Beneficiary may cause the Improvements to be freed from such asbestos or substances and any costs incurred in connection therewith will be paid by Trustor on demand and, if not so paid, will be added to the outstanding principal balance of the Note (even if such addition results in the outstanding principal balance being in excess of the face amount of the Note), will bear interest thereafter until actually paid by Trustor at the Default Rate, and will be secured hereby and by all of the other Loan Documents. Trustor hereby grants to Beneficiary and its agents and employees access to the Property and a license to remove any friable asbestos and/or substances containing asbestos deemed by Beneficiary to be hazardous.

1.23 Covenant Pertaining to Handicap Access Laws. Trustor will at all times, keep the Trust Estate in compliance with any and all Handicap Access Laws.

## **ARTICLE II** **ASSIGNMENT OF RENTS, ISSUES, AND PROFITS**

2.1 Assignment of Rents. Trustor hereby assigns and transfers to Beneficiary all the rents, issues and profits of the Trust Estate, and hereby gives to and confers upon Beneficiary the right, power and authority to collect such rents, issues and profits. Trustor irrevocably appoints Beneficiary its true and lawful attorney-in-fact, at the option of Beneficiary at any time and from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Trustor or Beneficiary, for all such rents, issues and profits and apply the same to the indebtedness secured hereby; provided, however, that Beneficiary hereby grants to Trustor a license to collect such rents, issues and profits (but not more than one month in advance) as long as there is not an Event of Default under any of the Loan Documents. The assignment of the rents, issues and profits of the Trust Estate in this Article II is intended to be an absolute assignment from Trustor to Beneficiary and not merely the passing of a security interest. The rents, issues and profits are hereby assigned absolutely by Trustor to Beneficiary subject to the foregoing license in favor of Trustor. Notwithstanding any other provision set forth herein, Beneficiary's and Trustor's rights and remedies with respect to the assignment of rents set forth herein shall be governed by the provisions of the Utah Uniform Assignment of Rents Act, Utah Code Annotated Title 57, Chapter 26. For purposes of giving effect to this absolute assignment of rents, and for no other purpose, rents will not be deemed to be a part of the Property. However, if this present, absolute and unconditional assignment of rents is not enforceable by its terms under the laws of the State where the Property is located, then rents will be included as a part of the Property and it

is the intention of Borrower that in this circumstance this Deed of Trust create and perfect a lien on rents in favor of Beneficiary, which lien will be effective as of the date of this Deed of Trust.

2.2 Collection Upon Default. Upon any Event of Default under any of the Loan Documents, Beneficiary may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Trust Estate, or any part thereof, 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 attorneys' fees, upon any indebtedness secured hereby and in such order as Beneficiary may determine. The collections of such rents, issues and profits or the entering upon and taking possession of the Trust Estate, or the application thereof as aforesaid, will not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

### **ARTICLE III SECURITY AGREEMENT AND FIXTURE FILING**

3.1 Creation of Security Interest. Trustor hereby grants to Beneficiary a security interest in the Personal Property located on or at the Property (except for personal property owned by tenants) and the General Intangibles, including without limitation, any and all property of similar type or kind hereafter located on or at the Property for the purpose of securing all obligations of Trustor contained in any of the Loan Documents.

3.2 Warranties, Representations and Covenants of Trustor. Trustor hereby warrants, represents and covenants as follows:

(a) Except for the security interest granted hereby, Trustor is, and as to portions of the Personal Property or General Intangibles to be acquired after the date hereof will be, the sole owner of the Personal Property and the General Intangibles, free from many adverse lien, security interest, encumbrance or adverse claims thereon of any kind whatsoever. Trustor will notify Beneficiary of, and will defend the Personal Property and General Intangibles against, all claims and demands of all persons at any time claiming the same or any interest therein.

(b) Except as provided in Section 3.2(d) hereof, Trustor will not lease, sell, convey or in any manner transfer the Personal Property other than in the ordinary course of business or the General Intangibles without the prior written consent of Beneficiary.

(c) The Personal Property is not used or bought for personal, family or household purposes.

(d) The Personal Property and General Intangibles will be kept on or at the Property and Trustor will not remove the Personal Property from the Property without the prior written consent of Beneficiary, except such portions or items of Personal Property which are consumed or worn out in ordinary usage, all of which will be promptly replaced by Trustor with new items of equal or greater quality.

(e) Trustor maintains a place of business in the State of Utah and Trustor will immediately notify Beneficiary in writing of any change in its place of business as set forth in the beginning of this Deed of Trust.

(f) At the request of Beneficiary, Trustor will join Beneficiary in executing one or more financing statements and renewals and amendments thereof pursuant to the Utah Uniform Commercial Code, as amended or recodified from time to time ("UCC") in form satisfactory to Beneficiary, and will pay the cost of filing the same in all public offices wherever filing is deemed by Beneficiary to be necessary or desirable.

(g) All covenants and obligations of Trustor contained herein relating to the Trust Estate will be deemed to apply to the Personal Property and General Intangibles whether or not expressly referred to herein.

(h) This Deed of Trust constitutes a Security Agreement as that term is used in the UCC.

3.3 Fixture Filing. This Deed of Trust constitutes a financing statement filed as a fixture filing under the UCC covering any part of the Trust Estate that now is or later may become fixtures attached to the Land or Improvements.

## **ARTICLE IV REMEDIES UPON DEFAULT**

4.1 Events of Default. "Events of Default" shall mean the occurrence of an "Event of Default" as defined in the Loan Agreement.

4.2 Acceleration Upon Default, Additional Remedies. In the event of any Event of Default, beneficiary may declare all indebtedness secured hereby to be due and payable and the same will thereupon become due and payable without any presentment, demand, protest, or notice of any kind. Thereafter, Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Trust Estate, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Trust Estate, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Trust Estate, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorneys' fees, upon any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the Trust Estate, the collection of such rents, issues and profits, and the application thereof as aforesaid, will not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Trust Estate or the collection, receipt and application of rents, issues or profits, and the application thereof as aforesaid, will not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the

continuance in possession of the Trust Estate or the collection, receipt and application of rents, issues or profits, Trustee or Beneficiary will be entitled to exercise every right provided for in any of the Loan Documents or by law upon occurrence of any event of default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver or specifically enforce any of the covenants hereof;

(c) Exercise any or all of the remedies available to a secured party under the UCC, including, but not limited to:

(i) Either personally or by means of a court appointed receiver, take possession of all or any of the Personal Property and exclude therefrom Trustor and all others claiming under Trustor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Trustor in respect to the Personal Property or any party thereof. In the event Beneficiary demands or attempts to take possession of the Personal Property in the exercise of any rights under any of the Loan Documents, Trustor promises and agrees to promptly turn over and deliver complete possession thereof to Beneficiary.

(ii) Without notice to or demand upon Trustor, make such payments and do such acts as Beneficiary may deem necessary to protect its security interest in the Personal Property, including, without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior or superior to the security interest granted hereunder and in exercising any such powers or authority to pay all expenses incurred in connection therewith;

(iii) Require Trustor to assemble the Personal Property or any portion thereof, at a place designated by Beneficiary and reasonably convenient to both parties, and promptly to deliver such Personal Property to Beneficiary, or an agent or representative designated by it. Beneficiary and its agents and representatives will have the right to enter upon any or all of Trustor's premises and property to exercise Beneficiary's rights hereunder.

(iv) Sell, lease or otherwise dispose of the Personal Property at public sale, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as Beneficiary may determine. Beneficiary may be a purchase rat any such sale; and

(v) Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary will give Trustor at least ten days prior written notice of the time and place of any public sale of the Personal Property, private sale or other intended disposition thereof. Such notice may be mailed to Trustor at the address provided by Section 5.6 of this Deed of Trust; and

(d) Exercise any or all of the remedies available to it under the Loan Documents;

(e) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Trust Estate to be sold,

which notice Trustee or Beneficiary will cause to be duly filed for record in the Official Records of the County in which the Trust Estate is located.

4.3 Foreclosure by Power of Sale. Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary will notify Trustee and will deposit with Trustee this Deed of Trust and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

(a) Upon receipt of such notice from Beneficiary, Trustee will cause to be recorded, published and delivered to Trustor such notice of default, as then is required by law and by this Deed of Trust. Trustee will, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such notice of default and after notice of sale having been given as required by law, sell the Trust Estate at the time and place of sale fixed by said notice of sale, either as a whole, or in separate lots or parcels or items, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee will deliver to such purchaser or purchasers thereof its good and sufficient trustee's deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts will be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale and Trustor hereby covenants to warrant and defend title of such purchaser or purchasers, this provision, however, will not be deemed as a waiver of rights Trustor may have against Trustee.

(b) After deducting all costs, fees and expenses of Trustee and of this Trust, including costs of evidence of title in connection with sale, Trustee will apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the Default Rate of interest; all other sums then secured hereby, and the remainder, if any, to the person or person legally entitled thereto.

(c) In accordance with applicable Utah law, Trustee may postpone sale of all or any portion of the Trustee Estate by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement or subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.

4.4 Appointment of Receiver. If an Event of Default will have occurred and be continuing, Beneficiary, as a matter of right and without notice to anyone claiming under Trustor, and without regard to the then value of the Trust Estate or the interest of Trustor therein, will have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Trust Estate, and Trustor hereby irrevocably consents to such appointment. Any such receiver or receivers will have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided in Section 4.2(a) and will continue as such and exercise all such powers until the date of confirmation of sale of the Trust Estate unless such receivership is sooner terminated.

4.5 Remedies Not Exclusive. Trustee and Beneficiary, and each of them, will be entitled to enforce payment and performance of any indebtedness or obligations secured hereby

and to exercise all rights and powers under this Deed of Trust or under any of the other Loan Documents or other agreements or any laws now or hereafter in force, notwithstanding that some or all of the said indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, will prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, will be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each will be cumulative and will be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary, and either of them may pursue inconsistent remedies.

4.6 Request for Notice. Trustor hereby requests a copy of any notice of default and that any notice of sale hereunder be mailed to it at the address set forth in Section 5.6 of this Deed of Trust.

4.7 Protective Advances.

(a) Advances, disbursements and expenditures made by Lender for the following purposes, upon the occurrence and during the continuance of an Event of Default, whether before and during a foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, shall be deemed to be obligatory advances and, in addition to those otherwise authorized by this Deed of Trust, constitute "Protective Advances":

(i) all advances by Lender in accordance with the terms of this Deed of Trust to: (A) preserve or maintain, repair, restore or rebuild the Improvements upon the Property; (B) preserve the lien of this Deed of Trust or the priority thereof; or (C) enforce this Deed of Trust;

(ii) payments by Lender of: (A) when due installments of principal, interest or other obligations; (B) prior to delinquency installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the mortgaged real estate or any part thereof; (C) other obligations authorized by this Deed of Trust; or (D) any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of Lender as holder of a first priority lien on the Property;

(iii) advances by Lender in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(iv) reasonable attorneys' fees and other costs actually incurred: (A) in connection with the foreclosure of this Deed of Trust; (B) in connection with any action, suit or proceeding brought by or against the Lender for the enforcement of this Deed of Trust or arising from the interest of the Lender hereunder; or (C) in the preparation for the commencement or defense of any such foreclosure or other action;

(v) advances of any amount required to make up a deficiency in deposits for installments of taxes and assessments and insurance premiums as may be authorized by this Deed of Trust; and (vi) actual expenses incurred and expenditures made by Lender for any one or more of the following: (A) premiums for casualty and liability insurance paid by Lender whether or not Lender or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof; (B) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (C) payments required for the benefit of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the mortgaged real estate; (D) shared or common expense assessments payable to any association or corporation in which the owner of the mortgaged real estate is a member in any way affecting the mortgaged real estate; or (E) pursuant to any lease or other agreement for occupancy of the mortgaged real estate.

(b) All Protective Advances shall be additional obligations of the Trustor hereunder, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the Default Rate.

(c) This Deed of Trust shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Deed of Trust is recorded.

(d) All Protective Advances shall apply to and be included in:

(i) determination of the amount of the Trustor's obligations at any time;

(ii) the Indebtedness found due and owing to the Lender in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional Indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(iii) application of income in the hands of any receiver or Lender in possession; and (iv) computation of any deficiency judgment pursuant to applicable law.

4.8 Non-Waiver. The acceptance by Trustee or Beneficiary of any sum after the same is due will not constitute a waiver of the right either to require prompt payment, when due, of all other sums hereby secured, or to declare a default as herein provided. The acceptance by Trustee or Beneficiary of any sum in an amount less than the sum then due will be deemed an acceptance on account only and upon condition that it will not constitute a waiver of the obligation of Trustor to pay the entire sum then due, and Trustor's failure to pay said entire sum then due will be and continue to be a default notwithstanding such acceptance of such amount, as aforesaid, and Trustor will be at all times thereafter and until the entire sum then due will have been paid, and notwithstanding the acceptance by Trustee or Beneficiary thereafter of further sums on account or

otherwise, entitled to exercise all rights in this Deed of Trust conferred upon Trustee or Beneficiary upon the occurrence of a default, and the right to proceed with a sale under any notice of default and election to sell, will in no way be impaired, whether any of such amounts are received prior or subsequent to such notice. Consent by Trustee or Beneficiary to any transaction or action of Trustor which is subject to consent or approval of Trustee or Beneficiary hereunder will not be deemed a waiver of the right to require such consent or approval to future or successive transactions or actions.

## ARTICLE V MISCELLANEOUS

5.1 Governing Law; Severability; Waiver. THIS DEED OF TRUST AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA; PROVIDED, HOWEVER, THAT AT ALL TIMES THE PROVISIONS HEREIN FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS CREATED HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED.

5.2 Venue. ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST TRUSTOR ARISING OUT OF OR RELATING TO THIS DEED OF TRUST MAY AT BENEFICIARY'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN OR HAVING JURISDICTION WITH RESPECT TO NEW YORK COUNTY, NEW YORK, AND TRUSTOR WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND TRUSTOR HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING.

5.3 Trustor's Waiver or Rights. Trustor waives the benefit of all laws now existing or that hereafter may be enacted providing for (i) any appraisement before sale of any portion of the Trust Estate, and (ii) the benefit of all laws that may be hereafter enacted in any way extending the time for the enforcement of the collection of the Note or the debt evidenced thereby or creating or extending a period of redemption from any sale made in collecting said debt. To the full extent Trustor may do so and without waiving any statutory rights, Trustor agrees that Trustor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisement, valuation, stay, extension, or redemption, and Trustor, for Trustor, Trustor's successors and assigns, and for any and all persons ever claiming any interest in the Trust Estate, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisement, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness, and marshaling in the event of foreclosure of the liens hereby created. If any law referred to in this Section and now in force, of which Trustor, Trustor's heirs, devisees, representatives, successors and assigns or other person might take advantage despite this Section, will hereafter be repealed or cease to be in force, such law will not thereafter be deemed to preclude the application of this Section. Trustor expressly waives and relinquishes

any and all rights and remedies which Trustor may have or be able to assert by reason of the laws of the State of Utah pertaining to the rights and remedies of sureties.

5.4 Limitation of Interest. It is the intent of Trustor and Beneficiary in the execution of this Deed of Trust and the Note and all other instruments securing the Note to contract in strict compliance with the usury laws of the State of Utah governing the loan evidenced by the Note. In furtherance thereof, Beneficiary and Trustor stipulate and agree that none of the terms and provisions contained in the Loan Documents will ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the maximum interest rate permitted to be charged by the laws of the State of Utah governing the loan evidenced by the Note. Trustor will never be required to pay interest on the Note at a rate in excess of the maximum interest that may be lawfully charged for loans of the type of this loan under the laws of the State of Utah and the provisions of this Section will control over all other provisions of the Note and any other instrument executed in connection herewith which may be in apparent conflict herewith. In the event any holder of the Note will collect monies which are deemed to constitute interest which would otherwise increase the effective interest rate on the Note to a rate in excess of that permitted to be charged by the laws of the State of Utah, all such sums deemed to constitute interest in excess of the maximum permissible rate will be immediately applied to the principal balance of the obligations or returned to the Trustor, at Beneficiary's option, upon such determination.

5.5 Reconveyance by Trustee. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment by Trustor of Trustee's fees, Trustee will reconvey to Trustor, or the person or persons legally entitled thereto, without warranty any portion of the Trust Estate then held hereunder. The recitals in such reconveyance of any matters or facts will be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto."

5.6 Notices. All notices given pursuant to this Deed of Trust shall be given in writing and shall be deemed to have been properly given (a) upon delivery if delivered in person, (b) one (1) Business Day after having been deposited for overnight delivery with any reputable overnight courier service, (c) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested, or (d) one (1) Business Day after delivery if sent by email, provided that the recipient has acknowledged receipt by telephone and that a copy of such notice is sent simultaneously by the other methods provided in this Section, addressed to the addresses set forth below in this Section or as such party may from time to time designate by written notice to the other parties. Either party by notice to the other in the manner provided herein may designate additional or different addresses for subsequent notices or communications. Any notice to legal counsel or other Person other than the primary addressee for Trustor or Beneficiary below shall be a courtesy copy only and shall not affect the timeliness or effectiveness of delivery to Trustor or Beneficiary.

To Trustee: First American Title Insurance Company  
215 S. State Street, Suite 380  
Salt Lake City, Utah 84111  
Attention: Alisha White

To Trustor: Salt Lake City Properties I, LLC  
c/o Kayne Anderson Real Estate Advisors, LLC  
One Town Center Road, Suite 300  
Boca Raton, Florida 33486  
Attention: S. David Selznick  
Email: [dselznick@kaynecapital.com](mailto:dselznick@kaynecapital.com)

With a copy to: Salt Lake City Properties I, LLC  
% Kayne Anderson Real Estate  
One Town Center, Suite 300  
Boca Raton, Florida 33486  
Attention: Russell M. Reiter, Esq.  
Email: [rreiter@kaynecapital.com](mailto:rreiter@kaynecapital.com)

And a copy to Michael Augustine  
1441 West Ute Blvd., Suite 130  
Park City, Utah 84098  
Email: [michael@altaterrare.com](mailto:michael@altaterrare.com)

And a copy to: Greenberg Traurig, LLP  
1840 Century Park East, Suite 1900  
Los Angeles, California 90067  
Attention: Gregory A. Fishman  
E-mail: [fishmang@gtlaw.com](mailto:fishmang@gtlaw.com)

And a copy to: Nelson Mullins Broad and Cassel  
Lynn Financial Center  
1905 NW Corporate Blvd., Suite 310  
Boca Raton, Florida 33431  
Attention: Christopher Staller  
Email: [chris.staller@nelsonmullins.com](mailto:chris.staller@nelsonmullins.com)

To Beneficiary: Pacific Western Bank  
5404 Wisconsin Avenue, 2nd Floor  
Chevy Chase, Maryland 20815  
Attn: SFB Credit Administration  
Email: [sfbcreditadministration@pacwest.com](mailto:sfbcreditadministration@pacwest.com)

With a copy to:

Pacific Western Bank  
9701 Wilshire Boulevard, Suite 700  
Beverly Hills, California 90212  
Attn: Thomas Whitesell; Jason Baker  
E-mail: [twhitesell@pacwest.com](mailto:twhitesell@pacwest.com); [jbaker@pacwest.com](mailto:jbaker@pacwest.com)

With a copy to:

Cox Castle & Nicholson LLP  
2029 Century Park East, Suite 2100  
Los Angeles, California 90067  
Attn: Caroline W. Dreyfus  
Email: [cdreyfus@coxcastle.com](mailto:cdreyfus@coxcastle.com)

5.7 Acceptance by Trustee. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

5.8 Captions. The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not part of this Deed of Trust.

5.9 Invalidity of Certain Provisions. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Trust Estate, the unsecured or partially secured portion of the debt will be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, will be considered to have been first paid on and applied to the full payment of that portion of the debt which is not secured or not fully secured by the lien of this Deed of Trust.

5.10 Subrogation. To the extent that proceeds of the Note or advances under this Deed of Trust are used to pay any outstanding lien, charge or prior encumbrance against the Trust Estate, such proceeds or advances have been or will be advanced by Beneficiary at Trustor's request and Beneficiary will be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

5.11 Restrictions on Transfer of Property and Interests Therein.

(a) Except as otherwise provided in this Deed of Trust, in the event of any sale, assignment, transfer, conveyance or other disposition or subjection to any lien, voluntarily or involuntarily, whether by operation of law or otherwise, of the Property and Improvements, or any part thereof or any interest therein, or in the event of any addition or deletion of a general partner in Trustor (other than by the death of a general partner, as long as the heirs of the general partner succeed to his rights hereunder), or the dilution of the general partners' interests or rights in Trustor, or any of the general partners of Trustor or any entity controlled by any of the general partners of Trustor, will cease to be the manager of the Property, or the material amendment or modification of Trustor's partnership agreement (with the exception of amendments necessary to reflect transfers in the partnership interests in Trustor, it being agreed that such transfers will not violate the terms of this Section as long as such transfers do not affect the interests of the general partners in Trustor), without in each instance the prior written consent of Beneficiary, which

consent will be entirely discretionary with Beneficiary, the entire unpaid principal balance of the indebtedness secured hereby together with accrued interest will become due and payable forthwith at the option of Beneficiary, together with the applicable prepayment fee payable in accordance with the terms of the Note. Except as otherwise provided herein, any sale, assignment, transfer, conveyance or other disposition, whether by operation of law or otherwise, of any interest in Trustor, without, in each instance, the prior written consent of Beneficiary, which consent will be entirely discretionary with Beneficiary, will be deemed to be an Event of Default under this Deed of Trust. Excepted from the foregoing restrictions are the following:

- (i) Liens for taxes not yet due and payable.
- (ii) Liens being contested by Trustor in accordance with Section 1.6 hereof.

(b) The following statement is incorporated herein in order to give notice of the above:

**NOTICE — THE DEBT SECURED HEREBY IS SUBJECT TO ACCELERATION OR CALL IN FULL IN THE EVENT OF A SALE, CONVEYANCE OR ENCUMBRANCE OF THE PROPERTY (OR PART THEREOF) OR INTERESTS OF TRUSTOR EXCEPT AS OTHERWISE PROVIDED HEREIN**

5.12 Subordinate Deeds of Trust. Trustor will not create, assume or suffer to exist with respect to the Property, or any part thereof, any mortgage, deed of trust or other encumbrance (other than this Deed of Trust) without the Trustor first having obtained the prior written consent of Beneficiary.

5.13 Prepayment Penalty After Default. If, following the occurrence of an Event of Default not cured within any applicable grace period and the acceleration of the amounts owing under the Loan Documents, Trustor will tender to Beneficiary payment of an amount sufficient to pay the entire unpaid principal balance of the Note, such tender will be deemed to be a voluntary prepayment under the Note and, consequently, to the extent permitted by applicable law, Trustor will also pay to Beneficiary any charge or premium required under the Note to be paid in order to prepay principal.

5.14 Attorneys' Fees. In the event of any litigation by any party hereto to enforce the terms of this Deed of Trust, the prevailing party in such litigation will be entitled to receive from the other party payment of attorneys' fees incurred (whether before or after the commencement of such litigation) by the prevailing party.

5.15 Assignment of Beneficiary's Interest. Trustor hereby specifically grants to Beneficiary the right and privilege, at Beneficiary's option, to transfer and assign to any third person all or any part of Beneficiary's rights hereunder. Upon any such transfer, Trustor at Beneficiary's request, will provide an estoppel certificate to such third person in a form and content satisfactory to Beneficiary, in its reasonable discretion.

5.16 Time is of the Essence. Time is of the essence under this Deed of Trust and the Loan Documents.

5.17 Final Expression. Pursuant to Section 25-5-4 of the Utah Code this written agreement is the final expression of the agreement between the parties hereto and this written agreement may not be contradicted by evidence of any alleged oral agreement.

5.18 Additional State-Specific Provisions. The following state-specific terms and conditions shall control over any inconsistent provisions of this Deed of Trust:

(a) Default Interest, Late Charges, Etc. For purposes of Utah Code Annotated § 57-1-28, Trustor agrees that all default interest, late charges, any prepayment premiums, swap breakage fees and similar amounts, if any, owing from time to time under the Note, Loan Agreement or other Loan Documents shall constitute a part of and be entitled to the benefits of Beneficiary's Deed of Trust lien upon the Property, and (ii) Trustor may add all default interest, late charges, prepayment premiums, swap breakage fees and similar amounts owing from time to time to the principal balance of the Note in its sole discretion, and in either case Beneficiary may include all such amounts in any credit which lender may make against its bid at a foreclosure sale of the Property pursuant to this Deed of Trust.

(b) Utah Construction Registry.

(i) Trustor shall timely comply with all requirements of Title 38 Chapter 1a of *Utah Code Annotated* with regard to filings and notices. Trustor shall cause Beneficiary to be named as a person interested in receiving electronic notices of all filings with respect to the Property in the State Construction Registry in accordance with *Utah Code Annotated* § 38-1a-201. Trustor shall also provide to Beneficiary, upon request, copies of all preliminary notices or other notices filed by any contractor, subcontractor or supplier with respect to the Property that are included in the State Construction Registry and/or received by Trustor.

(ii) Trustor represents and warrants to Beneficiary that it has inspected the records of the State Construction Registry and that based solely on such inspection and information prepared and disclosed by Trustee to Trustor and Beneficiary, Trustor is not aware of any current filings of a preliminary notice or notice of retention filed by any lien claimant (whether a pre-construction lien or a construction lien) except as disclosed to Beneficiary by Trustor or Trustee in writing. Trustor further represents and warrants that no mechanic's lien claim, notice of lien, *lis pendens* or similar filing has been filed in the State Construction Registry in any form prior to the date hereof with respect to the Property or recorded against the Property.

(iii) If Beneficiary or its title insurer determines that a preliminary notice has been filed in the State Construction Registry prior to the time of the recording of this Deed of Trust, Trustor shall provide to Beneficiary written evidence acceptable to Beneficiary and its title insurer that the lien claimant has accepted payment in full for construction services that the claimant furnished pursuant to *Utah Code Annotated* § 38-1a-503(2)(b) such that the priority for any pre-construction services lien or a construction services lien dates immediately after the recording of this Deed of Trust.

(iv) Trustor shall cooperate with Beneficiary and any title insurer to facilitate the filing of a Notice of Construction Loan, as contemplated by *Utah Code Annotated* § 38-1a-601 in the State Construction Registry with respect to the financing secured hereby. The notice of construction loan will include the following information: Beneficiary's name, address and telephone number, Trustor's full legal name, the tax parcel identification number for each parcel included in the Property secured hereby, the address of the Property, and the county in which the Property is located.

(v) Trustor shall cause, as a condition precedent to the closing of the loan secured hereby, Beneficiary's title insurer to insure in a manner acceptable to Beneficiary in its sole discretion, that this Deed of Trust shall be a valid and existing first priority lien on the Property free and clear of any and all exceptions for mechanic's and materialman's liens and all other liens and exceptions except as set forth in the mortgagee's policy of title insurance accepted by Beneficiary, and such title insurance policy may not contain an exception for broken lien priority and may not include any pending disbursement endorsement, or any similar limitation or coverage or requiring future endorsements to increase mechanic lien coverage under Covered Risk 11(a) of the 2006 Form of ALTA Mortgagee's Title Insurance Policy, except as set forth in the mortgagee's policy of title insurance accepted by Beneficiary.

(vi) Trustor shall pay and promptly discharge, at Trustor's cost and expense, all liens, encumbrances and charges upon the Property (other than the Permitted Exceptions), or any part thereof or interest therein whether inferior or superior to this Deed of Trust and keep and maintain the same free from the claim of all persons supplying labor, services or materials that will be used in connection with or enter into the construction of any and all buildings now being erected or that hereafter may be erected on the Property regardless of by whom such services, labor or materials may have been contracted, provided, however, that Trustor shall have the right to contest any such claim or lien so long as Trustor previously records a notice of release of lien and substitution of alternate security as contemplated by *Utah Code Annotated* § 38-1a-804 and otherwise complies with the requirements of *Utah Code Annotated* § 38-1a-804 to release the Property from such lien or claim. Notwithstanding the foregoing, Trustor may (A) with the prior written consent of Beneficiary, contest the amount of any such lien or claim related to services, labor or materials in accordance with *Utah Code Annotated* § 38-1a-804(7) without previously recording a notice of release of lien and substitution of alternate security or (B) appropriately bond or reserve (in cash deposited with Beneficiary) for any such lien or claim, as determined in Beneficiary's reasonable discretion.

(vii) If Trustor shall fail to remove and discharge any such lien, encumbrance or charge, or if Trustor shall dispute the amount thereof in contravention of the requirements hereof, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the release of the Property from the effect of such lien, encumbrance or charge by obtaining a bond in the name of and for the account of Trustor and recording a notice of release of lien and substitution of alternate security in the name of Trustor, each as contemplated by *Utah Code Annotated* § 38-1a-804 or other applicable law, or otherwise by giving security for such claim. Trustor shall, immediately upon demand therefor by Beneficiary, pay to Beneficiary an amount equal to all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing right to discharge any such lien, encumbrance or charge, including

costs of any bond or additional security, together with interest thereon from the date of such expenditure at the Default Rate.

(c) Personal Property. It is the express understanding and intent of the parties that as to any personal property interests subject to Article 9a of the Utah Uniform Commercial Code, Beneficiary, upon an Event of Default, may proceed under the Utah Uniform Commercial Code or may proceed as to both real and personal property interests in accordance with the provisions of this Deed of Trust and its rights and remedies in respect of real property, and treat both real and personal property interests as one parcel or package of security as permitted by *Utah Code Annotated* § 70A-9a-601 or other applicable law, and further may sell any shares of corporate stock evidencing water rights in accordance with *Utah Code Annotated* § 57-1-30 or other applicable law.

(d) Deficiency. Trustor agrees to pay any deficiency, arising from any cause, to which Beneficiary may be entitled after applications of the proceeds of any sale, and Beneficiary may commence suit to collect such deficiency in accordance with *Utah Code Annotated* § 57-1-32 or other applicable law. To the extent the Utah Deed of Trust Act, as now existing or hereafter amended, or other statute requires that the “fair market value” or “fair value” of the Property be determined as of the foreclosure date in order to enforce a deficiency against Trustor or any other party liable for repayment of the Secured Obligations, the term “fair market value” or “fair value” shall include those matters required by law and the additional factors set forth below:

(i) The Property shall be valued “as is” and “with all faults” and there shall be no assumption of restoration or refurbishment of Improvements, if any, after the date of the foreclosure.

(ii) An offset to the fair market value or fair value of the Property, as determined hereunder, shall be made by deducting from such value the reasonable estimated closing costs related to the sale of the Property, including, but not limited to, brokerage commissions, title policy expenses, tax pro-rations, escrow fees, and other common charges that are incurred by the seller of real property.

Trustor shall pay the costs of any appraisals and other expenses incurred in connection with any such determination of fair market value or fair value.

(e) Reinstatement. If Trustor, Trustor’s successor in interest or any other person having a subordinate lien or encumbrance of record on the Property, reinstates this Deed of Trust and the Loan within three (3) months of the recordation of a notice of default in accordance with *Utah Code Annotated* § 57-1-31(1), such party shall pay to Beneficiary the reasonable cancellation fee contemplated by *Utah Code Annotated* § 57-1-31(2), as delivered by Beneficiary, in accordance with its then current policies and procedures, whereupon Trustee shall record a notice of cancellation of the pending sale. Furthermore, in addition to any Trustor payment obligations under this Deed of Trusts, Trustor shall pay all costs, fees and expenses incurred by Trustee and Trustee’s agents and counsel for accountings and reinstatement quotes as may be required by *Utah Code Annotated* § 57-1-31.5 and all such costs, fees and expenses shall be secured by this Deed of Trust.

(f) Notice. Beneficiary hereby requests, pursuant to *Utah Code Annotated* § 57-1-26(3), a copy of any notice of default and that any notice of sale under any deed of trust or mortgage affecting the Property be mailed to it at the address set forth in Section 5.6 hereof.

(g) Amendments to Utah Code Annotated. In the event of any amendment to the provisions of *Utah Code Annotated* Title 57 or other provisions of *Utah Code Annotated* referenced in this Deed of Trust, this Deed of Trust shall be deemed amended to be consistent with such amendments.

(h) Obligations of Environmental Indemnity. Notwithstanding anything to the contrary set forth herein or any of the Loan Documents, this Deed of Trust shall not secure the obligations evidenced by or arising under any environmental indemnity made by Trustor with respect to the Premises.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

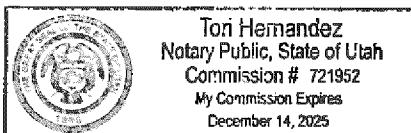
**TRUSTOR:**

SALT LAKE CITY PROPERTIES I, LLC,  
a Delaware limited liability company

By: Michael Augustine  
Name: Michael Augustine  
Its: President

STATE OF Utah )  
: ss.  
COUNTY OF Summit )

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of  
May by Michael Augustine.



Tori Hernandez  
Notary Public Residing at:  
445 Kent Dr. NBL, UT 84054

My Commission Expires:

December 14, 2025

## **EXHIBIT 1**

### **REAL PROPERTY**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SALT LAKE CITY, IN THE COUNTY OF SALT LAKE, STATE OF UTAH, AND IS DESCRIBED AS FOLLOWS:

**PARCEL 1:**

LOTS 2, 3, 4, 5, 6, 7, 8 AND THE SOUTH 22.5 FEET OF LOT 9, IN BLOCK 2, OF GRANITE SUBDIVISION, PLAT 'A', ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SALT LAKE COUNTY, UTAH.

ALSO, INCLUDING ALL THAT TRACT OF LAND BEING 30 FEET IN WIDTH PREVIOUSLY OCCUPIED BY THE D & RGW RAILROAD KNOWN AS THE BRICKYARD SPUR WHERE IT ADJOINS THE PROPERTY DESCRIBED ABOVE IN BLOCK 2, OF GRANITE SUBDIVISION, PLAT 'A', EXTENDING FROM THE NORTH LINE OF ASHTON AVENUE TO A LINE PARALLEL WITH ASHTON AVENUE 222.5 FEET NORTH OF ASHTON AVENUE WHICH LINE IS AN EXTENSION OF THE LINE 22.5 FEET NORTH OF THE SOUTH LINE OF LOT 9, IN BLOCK 2, GRANITE SUBDIVISION, PLAT 'A'.

**PARCEL 2:**

LOTS 3, 4, 5 AND 6, IN BLOCK 1, OF GRANITE SUBDIVISION, PLAT 'A', ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SALT LAKE COUNTY, UTAH.

ALSO INCLUDING THE FOLLOWING:

COMMENCING 78.5 FEET EAST OF THE SOUTHWEST CORNER OF LOT 9, IN BLOCK 1, OF GRANITE SUBDIVISION, PLAT 'A'; AND RUNNING THENCE EAST 201.5 FEET; THENCE SOUTH 33 FEET; THENCE WEST 201.5 FEET; THENCE NORTH 33 FEET TO THE POINT OF COMMENCEMENT.

PARCEL 2 IS ALSO DESCRIBED AS FOLLOWS PURSUANT TO THAT QUIT CLAIM DEED RECORDED DECEMBER 30, 1999, AS ENTRY NO. 7545320, IN BOOK 8333, AT PAGE 2314 OF OFFICIAL RECORDS, TO WIT:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 6, IN BLOCK 1 OF GRANITE SUBDIVISION, PLAT 'A', ACCORDING TO THE OFFICIAL PLAT RECORDED IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER, SAID NORTHWEST CORNER

BEING SOUTH 00°01'32" EAST ALONG THE MONUMENT LINE 33.03 FEET AND SOUTH 89°56'00" EAST ALONG SAID RIGHT-OF-WAY LINE OF ASHTON AVENUE FROM THE BRASS CAP MONUMENT FOUND AT THE INTERSECTION OF ASHTON AVENUE AND 1100 EAST STREET, AND RUNNING THENCE SOUTH 89°56'00" EAST ALONG SAID RIGHT OF WAY LINE 160.09 FEET; THENCE SOUTH 00°14'17" WEST 138.00 FEET; THENCE NORTH 89°56'00" WEST 201.50 FEET; THENCE NORTH 00°14'17" EAST 33.00 FEET TO A POINT ON THE SOUTH BOUNDARY LINE OF SAID GRANITE SUBDIVISION; THENCE SOUTH 89°56'00" EAST ALONG SAID SOUTH LINE 41.41 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6; THENCE NORTH 00°14'17" EAST ALONG THE WEST LINE OF SAID LOT 6 A DISTANCE OF 105.00 FEET TO THE POINT OF BEGINNING.

**EXHIBIT 2**  
**PERMITTED EXCEPTIONS**

The Permitted Title Exceptions referred to in the foregoing instrument are as follows:

1. Any statutory lien or claim of lien, not shown by the Public records at a Date of Policy, that arises from services provided, labor performed, or materials or equipment furnished, except as insured by the ALTA 32-06 Endorsement as it may be revised by any ALTA 33-06 Endorsement.
2. Taxes for the year 2022 now a lien, not yet due and payable.
3. Any charge upon the Land by reason of its inclusion in Salt Lake City, no amounts now due and payable.
4. Access is limited to those openings permitted by the State of Utah as evidenced by that certain Quit Claim Deed (Controlled Access) recorded June 06, 1958 as Entry No. 1594638 in Book 1510 at Page 310 of Official Records (affects Parcel 2).
5. Notice of Adoption of Redevelopment Plan Entitled "Sugar House Neighborhood Development Plan" and dated September 19, 1986 recorded November 10, 1986 as Entry No. 4346572 in Book 5838 at Page 887 of Official Records (affects Parcel 2).
6. Terms and conditions as disclosed by Declaration and Grant of Parking Easement dated December 29, 1999 executed by TCC-BTS SLC Fitness, Inc., a Delaware corporation recorded December 30, 1999 as Entry No. 7545318 in Book 8333 at Page 2304 of Official Records (affects Parcel 1).
7. Any rights, interests, or claims which may exist or arise by reason of the following facts shown on the ALTA/NSPS Land Title Survey dated April 20, 2022, prepared by Patrick M. Harris, License No. 286882, for Ensign, as Job Number 10322B:
  - A. Fence lines off the property lines.
  - B. Carport encroaches over southerly and westerly boundaries (affects Parcel 2).
  - C. Overhead power line crossing the Land outside of an apparent easement (affects Parcel 2).
  - D. Overhead power line crossing the southeasterly corner of the Land outside of an apparent easement (affects Parcel 1).