

Recording Requested by,
When Recorded, Return to:

Wells Fargo Bank, National Association
BBOS Business Lending Loan
Operations Center LDI
P.O. Box 65119
San Antonio, TX 78265

APNs: 32-003-0105, 32-003-0085, 32-003-0086,
~~32-003-0121~~, 32-003-0117, ~~32-003-0119~~,
~~32-003-0090~~, ~~32-003-0079~~, ~~32-003-0110~~,
~~32-003-0103~~, ~~32-003-0111~~, 32-003-0109

CTIA # 122693-WHF

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

32-003-0124
32-003-0131
32-003-0130
32-003-0141

THIS LEASEHOLD CONSTRUCTION DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING (this "Deed of Trust") is executed as of March 31, 2020, by **Santaquin Market, Inc.**, a Utah corporation ("Trustor"), to **Wells Fargo Trust Company, National Association** ("Trustee"), for the benefit of **Wells Fargo Bank, National Association** ("Beneficiary").

ARTICLE 1 - GRANT IN TRUST

1.1 **GRANT.** For the purposes and upon the terms and conditions in this Deed of Trust, Trustor irrevocably grants, conveys and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, all of Trustor's leasehold interest in: (a) the real property located in Utah County, Utah, and described on Exhibit A attached hereto; (b) all easements, rights-of-way and rights used in connection with or as a means of access to any portion of said real property; (c) all tenements, hereditaments and appurtenances thereof and thereto; (d) any land lying within the right-of-way of any street, open or proposed, adjoining said real property, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with said real property; (e) all buildings, improvements and landscaping now or hereafter erected or located on said real property; (f) all development rights, governmental or quasi-governmental licenses, permits or approvals, zoning rights and other similar rights or interests which relate to the development, use or operation of, or that benefit or are appurtenant to, said real property; (g) all mineral rights, oil and gas rights, air rights, water or water rights, including without limitation, all wells, canals, ditches and reservoirs of any nature and all rights thereto, appurtenant to or associated with said real property, whether decreed or undeclared, tributary or non-tributary, surface or underground, appropriated or unappropriated, and all shares of stock in any water, canal, ditch or reservoir company, and all well permits, water service contracts, drainage rights and other evidences of any such rights; and (h) all interest or estate which Trustor now has or may hereafter acquire in said real property and all additions and accretions thereto, and all awards or payments made for the taking of all or any portion of said real property by eminent domain or any proceeding or purchase in lieu thereof, or any damage to any portion of said real property (collectively, the "**Subject Property**"). The listing of specific rights or property shall not be interpreted as a limitation of general terms. Trustor's leasehold estate conveyed and assigned to Trustee herein is held by Trustor pursuant to that certain Amended and Restated Ground Lease, dated as of March 31, 2020 (the "**Ground Lease**"), between Trustor, as "Ground Lessee", and CJM Limited Liability Limited Partnership, an Idaho limited partnership, as "Ground Lessor" ("**Ground Lessor**").

1.2 GROUND LEASE.

(a) **Delivery of Ground Lease.** Trustor has delivered to Beneficiary a true, correct and complete copy of the Ground Lease, together with all amendments, supplements, modifications, assignments or transfers thereto, if any, as described in the first paragraph of this Deed of Trust, and Trustor represents that other than as set forth in the first paragraph of this Deed of Trust, the Ground Lease has not been amended, supplemented, modified, assigned or transferred. Trustor further represents that it holds the sole leasehold estate in the Ground Lease, subject to no subleases (other than those previously disclosed in writing by Trustor to Beneficiary).

(b) **Performance of Ground Lease Obligations.** Trustor shall not do any act which would destroy or materially impair the benefits to Beneficiary of this Deed of Trust, and without limiting the generality of the foregoing, Trustor agrees, subject to Trustor's rights of offset (if any) under the Ground Lease: (i) to perform promptly all obligations, agreements, covenants, terms and conditions imposed upon or assumed by it under the Ground Lease; (ii) not to take any action or omit to take any action which would effect or permit the termination of the Ground Lease; and (iii) to pay, when due, all basic rent and all other payments and charges under the Ground Lease, including, without limitation, insurance, taxes and assessments. Trustor agrees to perform all other obligations and agreements under the Ground Lease and Trustor agrees not to take any action or omit to take any action which would effect or permit the termination of said leasehold.

(c) **No Surrender, Termination, Amendment or Sublease.** Trustor shall not, without the prior written consent of Beneficiary: (i) surrender Trustor's leasehold estate and interest under the Ground Lease; (ii) terminate or cancel the Ground Lease; (iii) fail to renew or exercise any options to renew the Ground Lease; or (iv) sublease, assign or transfer all or any portion of Trustor's leasehold estate and interest under the Ground Lease. Trustor shall not, without the prior written consent of Beneficiary: (x) consent or refuse to consent to any action that the Ground Lessor desires to take under or with respect to the Ground Lease (except (A) the exercise in compliance with the Loan Documents (as defined below) of the "Put Option" and/or the "Call Option", as those terms are defined in Article 11 of the Ground Lease, or (B) the acquisition in compliance with the Loan Documents of the equity interest in Trustor by the Ground Lessor pursuant to the Ground Lease or otherwise; (y) modify, change, supplement, alter or amend the Ground Lease, either orally or in writing; or (z) waive or release the Ground Lessor from any obligations or conditions to be performed by Ground Lessor under the Ground Lease. Consent to one modification, change, supplement, alteration, amendment or sublease shall not be deemed to be a waiver of the right to require consent to other, future or successive modifications, changes, supplements, alterations, amendments, subleases, assignments or transfers. Trustor shall promptly deliver to Beneficiary a true, correct and complete copy of any modification, change, supplement, alteration or amendment to the Ground Lease. As used in this Deed of Trust, "**Loan Documents**" has the meaning given it in the Loan Agreement (as defined hereinafter).

(d) **No Subordination.** Trustor shall not subordinate or consent to the subordination of its interest in the Ground Lease to any mortgage, security deed, deed of trust, lease or other interest in all or any part of the Subject Property without the written consent of Beneficiary.

(e) **Notice of Default.** Trustor shall give immediate notice to Beneficiary of the receipt by it of any notice of default or of the exercise of any remedies relating to defaults or breach of the Ground Lease from the Ground Lessor, and shall deliver copies of any and all such notices to Beneficiary within five (5) business days after the receipt thereof. Trustor also shall furnish Beneficiary any and all information that Beneficiary may request concerning Trustor's performance under the Ground Lease.

(f) **Beneficiary's Right to Cure.** Beneficiary shall be entitled to take all actions necessary to cure any default by Trustor within the time provided by the terms of the Ground Lease for such purpose. Upon receipt by Beneficiary from the Ground Lessor of any written notice of default by Trustor under the Ground Lease, Beneficiary may rely thereon and take any action to cure such default even though the existence of such default or the nature thereof is questioned or denied by Trustor or by any other party. Trustor hereby expressly grants to Beneficiary and agrees that Beneficiary shall have, the absolute and immediate right during the continuance of a Default to enter in and upon the Subject Property or any part thereof to such extent and as often as Beneficiary, in its reasonable discretion, deems necessary in order to cure any such default with respect to the Ground Lease. Beneficiary may pay and expend such sums of money as Beneficiary in its reasonable discretion deems necessary for any such purpose, and Trustor hereby agrees to pay to Beneficiary within five (5) days after demand, all such sums so paid and expended by Beneficiary, together with interest thereon from the date of such payment at the Default Rate (as defined in the Note). All sums so paid and expended by Beneficiary and the interest thereon shall be added to and be secured by the lien of this Deed of Trust.

(g) **Notice of Change in Title.** Trustor shall notify Beneficiary of any acquisition by Trustor of the fee title in any of the property covered by the Ground Lease. If Trustor obtains any further interest in the property covered by the Ground Lease, including such fee title such interest shall be covered by this Deed of Trust and Trustor shall execute and deliver to Beneficiary such additional documents as are reasonably necessary to protect Beneficiary's interest therein.

(h) **No Release.** No release or forbearance of any of Trustor's obligations under the Ground Lease, pursuant to the Ground Lease or otherwise, shall release Trustor from any obligations under this Deed of Trust, including release from the obligations with respect to the payment of rent as provided for in the Ground Lease and the performance of any of the terms, provisions, covenants, conditions and agreements contained in the Ground Lease to be kept, performed and complied with by Trustor as provided therein.

(i) **No Merger.** Unless Beneficiary shall consent in writing, so long as this Deed of Trust is in effect, the fee title to the property covered by the Ground Lease and Trustor's leasehold estate created by the Ground Lease shall not merge but shall always remain separate and distinct, notwithstanding the union of such estates either in the Ground Lessor, Beneficiary or Trustor by purchase, operation of law or otherwise. If Beneficiary shall acquire such fee title and leasehold estate by foreclosure of this Deed of Trust or otherwise, then such estates shall not merge as a result of such acquisition but shall remain separate and distinct for all purposes after such acquisition unless and until Beneficiary elects to merge such estates.

(j) **No Conflict.** The provisions hereof shall be deemed to be obligations of Trustor in addition to Trustor's obligations under the Ground Lease; provided, however, that nothing in this Deed of Trust shall be construed as requiring the taking of or the committing to take any action by Trustor or Beneficiary that would cause a default under the Ground Lease. The inclusion in this Deed of Trust of any covenants and agreements relating to similar matters under which Trustor is obligated under the Ground Lease shall not restrict or limit Trustor's duties and obligations to keep and perform promptly all of its covenants, agreements and obligations under the Ground Lease.

(k) **Conditional Assignment of Ground Lease.** Trustor does hereby assign, transfer, set over and deliver to Beneficiary, for collateral purposes only, all of Trustor's rights, title and interest in, to and under the Ground Lease. By its acceptance hereof, Beneficiary hereby covenants and agrees that so long as there exists no Default hereunder, Trustor shall have the

right to possess and enjoy the Premises (as defined in the Ground Lease), subject to the terms and conditions contained herein.

(l) **Attorney-in-Fact.** Effective upon the occurrence and during the continuance of a Default, Trustor hereby constitutes and appoints Beneficiary the true and lawful attorney-in-fact, coupled with an interest, of Trustor, empowered and authorized in the name, place and stead of Trustor to exercise all rights of Trustor under the Ground Lease. The foregoing appointment is irrevocable and continuing and such rights, powers and privileges shall be exclusive in Beneficiary, its successors and assigns, so long as any part of the Secured Obligations remains unpaid or undischarged.

(m) **New Ground Lease.** If, upon the occurrence and during the continuance of a Default, Beneficiary or its designee shall acquire or obtain a new ground lease covering any portion of the property covered by the Ground Lease (a "**New Ground Lease**"), then Trustor shall have no right, title or interest whatsoever in or to such New Ground Lease, or any proceeds or income arising from the estate arising under such New Ground Lease, including any from any sale or other disposition thereof. Beneficiary or its designee shall hold such New Ground Lease free and clear of any right or claim of Trustor.

(n) **Assignment of § 365(h) Election.**

(i) Trustor acknowledges that pursuant to Section 365 of the Bankruptcy Reform Act of 1978 (as the same may be amended or recodified from time to time, called the "**Bankruptcy Reform Act**") it is possible that a trustee in bankruptcy of the Ground Lessor, or the Ground Lessor as a debtor-in-possession, could reject the Ground Lease, in which case Trustor, as tenant, would have the election described in Section 365(h) of the Bankruptcy Reform Act (which election, as it may be amended, revised or recodified from time to time, and together with any comparable right under any other state or federal law relating to bankruptcy, reorganization or other relief for debtors, whether now or hereafter in effect, is called the "**Election**") to treat the Ground Lease as terminated by such rejection or, in the alternative, to remain in possession for the balance of the term of the Ground Lease and any renewal or extension thereof that is enforceable by the tenant under applicable non-bankruptcy law.

(ii) Trustor agrees not to terminate or permit termination of the Ground Lease by exercise of the Election without the prior written consent of Beneficiary. Trustor acknowledges that because the Ground Lease is a significant part of Beneficiary's security for the obligations secured under this Deed of Trust, Beneficiary does not anticipate that it would consent to termination of the Ground Lease and shall not under any circumstances be obliged to give such consent.

(iii) In order to secure the covenant made in subsection 1.3(n)(i) above and as security for the other obligations secured under this Deed of Trust, Trustor hereby assigns the Election to Trustee and Beneficiary under this Deed of Trust. Trustor acknowledges and agrees that this assignment of the Election is one of the rights which Trustee and Beneficiary may use at any time in order to protect and preserve the other rights and interests of Trustee and Beneficiary under this Deed of Trust, since exercise of the Election in favor of terminating the Ground Lease would constitute waste hereunder.

(iv) Trustor acknowledges and agrees that the Election is in the nature of a remedy and is not a property interest which Trustor can separate from the Ground Lease.

Therefore, Trustor agrees that exercise of the Election in favor of preserving the right to possession under the Ground Lease shall not be deemed to constitute a taking or sale of the subject property by Trustee or Beneficiary and shall not entitle Trustor to any credit against the obligations secured by this Deed of Trust.

(v) Trustor further acknowledges and agrees that if the Election is exercised in favor of Trustor remaining in possession, then Trustor's resulting right under the Ground Lease to possession and use of (and rents and profits from) the real property described in Exhibit A, as adjusted by the effect of Section 365 of the Bankruptcy Reform Act, shall be part of the subject property and shall be subject to the lien created by this Deed of Trust. However, Trustor acknowledges and agrees that the right under the Ground Lease to possession and use of the real property described in Exhibit A, as so adjusted, is not equivalent to the leasehold interest which is the subject property at the time of execution of this Deed of Trust. Therefore, Trustor agrees that rejection of the Ground Lease under the Bankruptcy Reform Act by a trustee in bankruptcy of the Ground Lessor, or by the Ground Lessor as a debtor-in-possession, shall constitute a default under this Deed of Trust and shall entitle Trustee and Beneficiary to all rights and remedies under Section 6.2 of this Deed of Trust.

ARTICLE 2 - OBLIGATIONS SECURED

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

(a) payment to Beneficiary of all indebtedness and other sums owing and performance of all other obligations arising under or in connection with (i) a Promissory Note of even date herewith, made by Trustor and payable to the order of Beneficiary, in the principal amount of FIVE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$5,250,000.00), and (ii) a Promissory Note of even date herewith, made by Trustor and payable to the order of Beneficiary, in the principal amount of ONE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$1,400,000.00) (collectively, the "**Notes**"), together with the payment and performance of any other indebtedness or obligations incurred in connection with the credit accommodation evidenced by the Notes, whether or not specifically referenced therein; and

(b) payment and performance of all indebtedness and other obligations of Trustor under that certain Construction Loan Agreement of even date herewith, by and between Trustor and Beneficiary (as it may be amended from time to time, the "**Loan Agreement**"); and

(c) payment and performance of all indebtedness and other obligations of Trustor under this Deed of Trust, together with all advances, payments or other expenditures made by Beneficiary or Trustee as or for the payment or performance of any such obligations of Trustor (but excluding those obligations expressly excluded pursuant to Section 5.10 hereof); and

(d) payment to Beneficiary of all liability, whether liquidated or unliquidated, defined, contingent, conditional or of any other nature whatsoever, and performance of all other obligations, arising under any swap, derivative, foreign exchange or hedge transaction or arrangement (or other similar transaction or arrangement howsoever described or defined) at any time entered into with Beneficiary in connection with the Notes; and

(e) all modifications, extensions and renewals of any of the Secured Obligations (including without limitation, (i) modifications, extensions or renewals at a different rate of interest, or (ii) deferrals or accelerations of the required principal payment dates or interest payment dates or both, in whole or in part), however evidenced, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

2.2 **OBLIGATIONS.** The terms "**obligations**" and "**indebtedness**" are used herein in their most comprehensive sense and include any and all advances, debts, obligations and liabilities heretofore, now or hereafter made, incurred or created, whether voluntary or involuntary and however arising, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, joint or several, including without limitation, all principal, interest, charges, including prepayment charges and late charges, and loan fees at any time accruing or assessed on any Secured Obligation. For purposes of Utah Code Annotated § 57-1-28, Trustor agrees that all default interest, late charges, prepayment premiums, swap breakage fees and similar amounts, if any, owing from time to time under the Notes or other Secured Obligation shall constitute a part of and be entitled to the benefits of Beneficiary's Deed of Trust lien upon the Subject Property, and Beneficiary, in its sole discretion, may add all such default interest, late charges, prepayment premiums, swap breakage fees and similar amounts owing from time to time to the principal balance of the Notes or other Secured Obligation, and in any case, Beneficiary may include all such amounts in any credit that Beneficiary may make against its bid at a foreclosure sale of the Subject Property pursuant to this Deed of Trust.

2.3 **INCORPORATION.** All terms of the Secured Obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Subject Property are hereby deemed to have notice of the terms of the Secured Obligations and to have notice, if provided therein, that: (a) the Notes or any other Secured Obligation may permit borrowing, repayment and reborrowing; and (b) the rate of interest on one or more of the Secured Obligations may vary from time to time.

ARTICLE 3 - ASSIGNMENT OF RENTS AND LEASES

3.1 **ASSIGNMENT.** For the purposes and upon the terms and conditions set forth herein, Trustor irrevocably assigns to Beneficiary all of Trustor's right, title and interest in, to and under all leases, licenses, rental agreements and other agreements of any kind relating to the use or occupancy of any of the Subject Property, whether existing as of the date hereof or at any time hereafter entered into, together with all guarantees of and security for any tenant's or lessee's performance thereunder, and all amendments, extensions, renewals and modifications thereto (each, a "**Lease**" and collectively, the "**Leases**"), together with any and all other rents, issues and profits of the Subject Property (collectively, "**Rents**"). This assignment shall not impose upon Beneficiary any duty to produce Rents from the Subject Property, nor cause Beneficiary to be: (a) a "mortgagee in possession" for any purpose; (b) responsible for performing any of the obligations of the lessor or landlord under any Lease; or (c) responsible for any waste committed by any person or entity at any time in possession of the Subject Property or any part thereof, or for any dangerous or defective condition of the Subject Property, or for any negligence in the management, upkeep, repair or control of the Subject Property. This is an absolute assignment, not an assignment for security only, and Beneficiary's right to Rents is not contingent upon and may be exercised without possession of the Subject Property. Trustor agrees to execute and deliver to Beneficiary, within five (5) days of Beneficiary's written request, such additional documents as Beneficiary or Trustee may reasonably request to further evidence the assignment to Beneficiary of any and all Leases and Rents. This Article 3 is subject to the Utah Uniform Assignment of Rents Act, Utah Code Annotated § 57-26-101, et. seq. (the "**Assignment of**

Leases Act”), and in the event of any conflict or inconsistency between the provisions of this Article 3 and the provisions of the Assignment of Leases Act, the provisions of the Assignment of Leases Act shall control and Beneficiary shall have all rights and remedies available under the Assignment of Leases Act, which rights and remedies shall be cumulative with all rights and remedies hereunder.

3.2 **PROTECTION OF SECURITY**. To protect Beneficiary's security under this Article 3, Trustor agrees:

(a) At Trustor's sole cost and expense: (i) to perform each obligation to be performed by the lessor or landlord under each Lease and to enforce or secure the performance of each obligation to be performed by the lessee or tenant under each Lease; (ii) not to modify any Lease in any material respect, nor accept surrender under or terminate the term of any Lease; (iii) not to anticipate the Rents under any Lease; and (iv) not to waive or release any lessee or tenant of or from any Lease obligations. Trustor assigns to Beneficiary all of Trustor's right and power to modify the terms of any Lease, to accept a surrender under or terminate the term of or anticipate the Rents under any Lease, and to waive or release any lessee or tenant of or from any Lease obligations, and any attempt on the part of Trustor to exercise any such rights or powers without Beneficiary's prior written consent shall be a breach of the terms hereof.

(b) At Trustor's sole cost and expense, to defend any action in any manner connected with any Lease or the obligations thereunder, and to pay all costs of Beneficiary or Trustee, including reasonable attorneys' fees, in any such action in which Beneficiary or Trustee may appear.

(c) That, should Trustor fail to do any act required to be done by Trustor under a Lease, then Beneficiary or Trustee, but without obligation to do so and without notice to Trustor and without releasing Trustor from any obligation hereunder, may make or do the same in such manner and to such extent as Beneficiary or Trustee deems necessary to protect the security hereof, and, in exercising such powers, Beneficiary or Trustee may employ attorneys and other agents, and Trustor shall pay necessary costs and reasonable attorneys' fees incurred by Beneficiary or Trustee, or their agents, in the exercise of the powers granted herein. Trustor shall give prompt notice to Beneficiary of any default by any lessee or tenant under any Lease, and of any notice of default on the part of Trustor under any Lease received from a lessee or tenant thereunder, together with an accurate and complete copy thereof.

(d) To pay to Beneficiary immediately upon demand all sums expended under the authority hereof, including reasonable attorneys' fees, together with interest thereon at the highest rate per annum payable under any Secured Obligation, and the same, at Beneficiary's option, may be added to any Secured Obligation and shall be secured hereby.

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

the provisions of this Deed of Trust. The entering and taking possession of the Subject Property, the collection of Rents and the application thereof as aforesaid, shall not cure or waive any Default, nor waive, modify or affect any notice of default hereunder, nor invalidate any act done pursuant to any such notice. The License shall not grant to Beneficiary or Trustee the right to possession, except as provided in this Deed of Trust.

ARTICLE 4 - SECURITY AGREEMENT AND FIXTURE FILING

4.1 **SECURITY INTEREST; CONSTRUCTION MORTGAGE.** Trustor hereby grants and assigns to Beneficiary a security interest, to secure payment and performance of all of the Secured Obligations, in all of the following described personal property in which Trustor now or at any time hereafter has any interest (collectively, the "**Fixtures**"):

All goods, supplies, equipment, furniture, or furnishings, which are incorporated into the Subject Property such that they become fixtures (as defined in the Uniform Commercial Code as enacted in Utah).

It is intended by Trustor and Beneficiary that this Deed of Trust constitutes a fixture filing filed with the real estate records of Utah County, Utah, under the Uniform Commercial Code as enacted in Utah ("**UCC**"), and is acknowledged and agreed to be a "construction mortgage" under the UCC.

For purposes of this fixture filing, Trustor is the "Debtor", and Beneficiary is the "Secured Party". A description of the land which relates to the fixtures is set forth in Exhibit A attached hereto. Trustor is the record owner of such land.

4.2 **RIGHTS OF BENEFICIARY.**

(a) In addition to Beneficiary's rights as a "Secured Party" under the UCC, Beneficiary may, but shall not be obligated to, at any time without notice and at the expense of Trustor: (a) give notice to any person of Beneficiary's rights hereunder and enforce such rights at law or in equity; (b) insure, protect, defend and preserve the Fixtures or any rights or interests of Beneficiary therein; (c) inspect the Fixtures; and (d) endorse, collect and receive any right to payment of money owing to Trustor under or from the Fixtures.

(b) Upon the occurrence of a Default (hereinafter defined) under this Deed of Trust, then in addition to all of Beneficiary's rights as a "Secured Party" under the UCC or otherwise at law and in addition to Beneficiary's rights under the Loan Documents, any proceeds of any disposition of any Collateral may be applied by Beneficiary to the payment of expenses incurred by Beneficiary in connection with the foregoing, including reasonable attorneys' fees, and the balance of such proceeds may be applied by Beneficiary toward the payment of the Secured Obligations in such order of application as Beneficiary may from time to time elect.

ARTICLE 5 - RIGHTS AND DUTIES OF THE PARTIES

5.1 **TITLE.** Trustor warrants that, except as disclosed to Beneficiary prior to the date hereof in a writing which refers to this warranty, Trustor lawfully possesses and holds a leasehold interest in the Subject Property without limitation on the right to encumber such leasehold interest, as herein provided, and that this Deed of Trust is a valid first priority lien on such leasehold interest.

5.2 **TAXES AND ASSESSMENTS**. Subject to the right, if any, of Trustor to contest payment of the following pursuant to any other agreement between Trustor and Beneficiary, Trustor shall pay prior to delinquency all taxes, assessments, levies and charges imposed: (a) by any public or quasi-public authority or utility company which are or which may become a lien upon or cause a loss in value of the Subject Property or any interest therein; or (b) by any public authority upon Beneficiary by reason of its interest in any Secured Obligation or in the Subject Property, or by reason of any payment made to Beneficiary pursuant to any Secured Obligation; provided however, that Trustor shall have no obligation to pay any income taxes of Beneficiary. Promptly upon request by Beneficiary, Trustor shall furnish to Beneficiary satisfactory evidence of the payment of all of the foregoing. Beneficiary is hereby authorized to request and receive from the responsible governmental and non-governmental personnel written statements with respect to the accrual and payment of any of the foregoing.

5.3 **PERFORMANCE OF SECURED OBLIGATIONS**. Trustor shall promptly pay and perform each Secured Obligation when due.

5.4 **COMPLIANCE WITH LAW**. Trustor shall promptly comply with all laws, ordinances, and regulations of all governmental authorities, now or hereafter in effect, applicable to the use or occupancy of the Subject Property.

5.5 **LIENS, ENCUMBRANCES AND CHARGES**. Trustor shall not, without Beneficiary's consent, mortgage, assign, grant a lien upon or security interest in, or otherwise encumber the Subject Property or any interest in the Subject Property, or allow such a lien or security interest to exist or arise, whether voluntarily, involuntarily, or by operation of law, except for liens and security interests in favor of Beneficiary, or property taxes attributable to the Subject Property which are not past due. Trustor shall immediately discharge any lien on the Subject Property not approved by Beneficiary in writing.

5.6 **INSURANCE**.

(a) Trustor shall insure the Subject Property against loss or damage by fire and such other risks as Beneficiary shall from time to time require. Trustor shall carry commercial general liability insurance, flood insurance as required by applicable law and such other insurance as Beneficiary may reasonably require, including without limitation, terrorism, business interruption insurance or loss of rental value insurance. Trustor shall maintain all required insurance at Trustor's expense, under policies issued by companies and in form and substance satisfactory to Beneficiary. Neither Beneficiary nor Trustee, by reason of accepting, rejecting, approving or obtaining insurance, shall incur any liability for: (i) the existence, nonexistence, form or legal sufficiency thereof; (ii) the solvency of any insurer; or (iii) the payment of losses.

(b) All required policies and certificates of insurance shall name Beneficiary as loss payee, and shall provide that the insurance cannot be terminated as to Beneficiary except upon a minimum of ten (10) days' prior written notice to Beneficiary. Immediately upon any request by Beneficiary, Trustor shall deliver to Beneficiary the original of all such policies or certificates, with receipts evidencing annual prepayment of the premiums

(c) Trustor acknowledges and agrees that if Trustor fails to provide any required insurance on the terms set forth herein or in any Loan Documents, or fails to continue such insurance in force in compliance with the requirements of this Deed of Trust or any Loan Documents, Beneficiary may purchase insurance at Trustor's expense as provided therein. Such insurance may protect Trustor's interests, and may otherwise protect none of, or less than all of,

Trustor's interests. The cost of any such insurance shall become a part of the indebtedness and shall be payable on demand or added to the Notes as provided herein, at Beneficiary's option. TRUSTOR ACKNOWLEDGES THAT IF BENEFICIARY SO PURCHASES ANY SUCH INSURANCE, THE INSURANCE MAY PROVIDE LIMITED PROTECTION AGAINST PHYSICAL DAMAGE TO THE COLLATERAL, UP TO THE BALANCE OF THE LOAN; HOWEVER, TRUSTOR'S EQUITY IN THE COLLATERAL MAY NOT BE INSURED. IN ADDITION, THE INSURANCE MAY NOT PROVIDE ANY PUBLIC LIABILITY OR PROPERTY DAMAGE INDEMNIFICATION AND MAY NOT MEET THE REQUIREMENTS OF ANY FINANCIAL RESPONSIBILITY LAWS.

5.7 TAX AND INSURANCE IMPOUNDS. At Beneficiary's option and upon its demand, Trustor shall, until all Secured Obligations have been paid in full, pay to Beneficiary monthly, annually or as otherwise directed by Beneficiary an amount estimated by Beneficiary to be equal to: (a) all taxes, assessments, levies and charges imposed by any public or quasi-public authority or utility company which are or may become a lien upon the Subject Property and will become due for the tax year during which such payment is so directed; and (b) premiums for fire, other hazard and mortgage insurance next due. If Beneficiary determines that amounts paid by Trustor are insufficient for the payment in full of such taxes, assessments, levies and/or insurance premiums, Beneficiary shall notify Trustor of the increased amount required for the payment thereof when due, and Trustor shall pay to Beneficiary such additional amount within thirty (30) days after notice from Beneficiary. All amounts so paid shall not bear interest, except to the extent and in the amount required by law. So long as there is no Default, Beneficiary shall apply said amounts to the payment of, or at Beneficiary's sole option release said funds to Trustor for application to and payment of, such taxes, assessments, levies, charges and insurance premiums. If a Default exists, Beneficiary at its sole option may apply all or any part of said amounts to any Secured Obligation and/or to cure such Default, in which event Trustor shall be required to restore all amounts so applied, as well as to cure any Default not cured by such application. Trustor hereby grants and transfers to Beneficiary a security interest in all amounts so paid and held in Beneficiary's possession, and all proceeds thereof, to secure the payment and performance of each Secured Obligation. Upon assignment of this Deed of Trust, Beneficiary shall have the right to assign all amounts collected and in its possession to its assignee, whereupon Beneficiary and Trustee shall be released from all liability with respect thereto. The existence of said impounds shall not limit Beneficiary's rights under any other provision of this Deed of Trust or any other agreement, statute or rule of law. Within ninety-five (95) days following full repayment of all Secured Obligations (other than as a consequence of a foreclosure or conveyance in lieu of foreclosure of the liens and security interests securing any Secured Obligation), or at such earlier time as Beneficiary in its discretion may elect, the balance of all amounts collected and in Beneficiary's possession shall be paid to Trustor, and no other party shall have any right of claim thereto.

5.8 DAMAGES; INSURANCE AND CONDEMNATION PROCEEDS.

(a) (i) All awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation (or transfer in lieu thereof) for public or private use affecting the Subject Property; (ii) all other claims and awards for damages to or decrease in value of the Subject Property; (iii) all proceeds of any insurance policies payable by reason of loss sustained to the Subject Property; and (iv) all interest which may accrue on any of the foregoing, are all absolutely and irrevocably assigned to and shall be paid to Beneficiary. At the absolute discretion of Beneficiary, whether or not its security is or may be impaired, but subject to applicable law if any, and without regard to any requirement contained in any other Section hereof, Beneficiary may apply all or any of the proceeds it receives to its expenses in

settling, prosecuting or defending any such claim and apply the balance to the Secured Obligations in any order, and release all or any part of the proceeds to Trustor upon any conditions Beneficiary may impose. Beneficiary may commence, appear in, defend or prosecute any assigned claim or action, and may adjust, compromise, settle and collect all claims and awards assigned to Beneficiary; provided however, that in no event shall Beneficiary be responsible for any failure to collect any claim or award, regardless of the cause of the failure.

(b) At its sole option, Beneficiary may permit insurance or condemnation proceeds held by Beneficiary to be used for repair or restoration but may impose any conditions on such use as Beneficiary deems necessary.

5.9 **MAINTENANCE AND PRESERVATION OF SUBJECT PROPERTY.** Subject to the provisions of any Secured Obligation, Trustor covenants:

- (a) to keep the Subject Property in good condition and repair;
- (b) except with Beneficiary's prior written consent, not to remove or demolish the Subject Property, nor alter, restore or add to the Subject Property, nor initiate or acquiesce in any change in any zoning or other land classification which affects the Subject Property;
- (c) to restore promptly and in good workmanlike manner any portion of the Subject Property which may be damaged or destroyed, unless Beneficiary requires that all of the insurance proceeds be used to reduce the Secured Obligations as provided in Section 5.8 hereof;
- (d) to comply with and not to suffer violation of any or all of the following which govern acts or conditions on, or otherwise affect the Subject Property: (i) laws, ordinances, regulations, standards and judicial and administrative rules and orders; (ii) covenants, conditions, restrictions and equitable servitudes, whether public or private; and (iii) requirements of insurance companies and any bureau or agency which establishes standards of insurability;
- (e) not to commit or permit waste of the Subject Property; and
- (f) to do all other acts which from the character or use of the Subject Property may be reasonably necessary to maintain and preserve its value.

5.10 **PROTECTION OF SECURITY.** Trustor shall, at Trustor's sole expense: (a) protect, preserve and defend the Subject Property and Trustor's title and right to possession of the Subject Property against all adverse claims; (b) if Trustor's interest in the Subject Property is a leasehold interest or estate, pay and perform in a timely manner all obligations to be paid and/or performed by the lessee or tenant under the lease or other agreement creating such leasehold interest or estate; and (c) protect, preserve and defend the security of this Deed of Trust and the rights and powers of Beneficiary and Trustee under this Deed of Trust against all adverse claims. Trustor shall give Beneficiary and Trustee prompt notice in writing of the assertion of any claim, the filing of any action or proceeding, or the occurrence of any damage, condemnation offer or other action relating to or affecting the Subject Property and, if Trustor's interest in the Subject Property is a leasehold interest or estate, of any notice of default or demand for performance under the lease or other agreement pursuant to which such leasehold interest or estate was created or exists.

5.11 **ACCEPTANCE OF TRUST; POWERS AND DUTIES OF TRUSTEE.** Trustee accepts this trust when this Deed of Trust is executed. From time to time, upon written request of Beneficiary and, to the extent required by applicable law presentation of this Deed of Trust for

endorsement, and without affecting the personal liability of any person for payment of any indebtedness or performance of any of the Secured Obligations, Beneficiary, or Trustee at Beneficiary's direction, may, without obligation to do so or liability therefor and without notice: (a) reconvey all or any part of the Subject Property from the lien of this Deed of Trust; (b) consent to the making of any map or plat of the Subject Property; and (c) join in any grant of easement or declaration of covenants and restrictions with respect to the Subject Property, or any extension agreement or any agreement subordinating the lien or charge of this Deed of Trust. Trustee or Beneficiary may from time to time apply to any court of competent jurisdiction for aid and direction in the execution of the trusts and the enforcement of its rights and remedies available under this Deed of Trust, and may obtain orders or decrees directing, confirming or approving acts in the execution of said trusts and the enforcement of said rights and remedies. Trustee has no obligation to notify any party of any pending sale or any action or proceeding (including, but not limited to, actions in which Trustor, Beneficiary or Trustee shall be a party) unless held or commenced and maintained by Trustee under this Deed of Trust. Trustee shall not be obligated to perform any act required of it under this Deed of Trust unless the performance of the act is requested in writing and Trustee is reasonably indemnified against all losses, costs, liabilities and expenses in connection therewith.

5.12 **COMPENSATION; EXCULPATION; INDEMNIFICATION.**

(a) Trustor shall pay all Trustee's fees and reimburse Trustee for all expenses in the administration of this trust, including reasonable attorneys' fees and fees for accountings and restatement quotes as may be required by Utah Code Annotated § 57-1-31.5. Trustor shall pay Beneficiary reasonable compensation for services rendered concerning this Deed of Trust, including without limitation, the providing of any statement of amounts owing under any Secured Obligation. Beneficiary shall not directly or indirectly be liable to Trustor or any other person as a consequence of: (i) the exercise of any rights, remedies or powers granted to Beneficiary in this Deed of Trust; (ii) the failure or refusal of Beneficiary to perform or discharge any obligation or liability of Trustor under this Deed of Trust or any Lease or other agreement related to the Subject Property; or (iii) any loss sustained by Trustor or any third party as a result of Beneficiary's failure to lease the Subject Property after any Default or from any other act or omission of Beneficiary in managing the Subject Property after any Default unless such loss is caused by the willful misconduct or gross negligence of Beneficiary; and no such liability shall be asserted or enforced against Beneficiary, and all such liability is hereby expressly waived and released by Trustor.

(b) Trustor shall indemnify Trustee and Beneficiary against, and hold them harmless from, any and all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorneys' fees and other legal expenses, costs of evidence of title, costs of evidence of value, and other expenses which either may suffer or incur: (i) by reason of this Deed of Trust; (ii) by reason of the execution of this trust or the performance of any act required or permitted hereunder or by law; (iii) as a result of any failure of Trustor to perform Trustor's obligations; or (iv) by reason of any alleged obligation or undertaking of Beneficiary to perform or discharge any of the representations, warranties, conditions, covenants or other obligations contained in any other document related to the Subject Property, including without limitation, the payment of any taxes, assessments, rents or other lease obligations, liens, encumbrances or other obligations of Trustor under this Deed of Trust. Trustor's duty to indemnify Trustee and Beneficiary shall survive the payment, discharge or cancellation of the Secured Obligations and the release or reconveyance, in whole or in part, of this Deed of Trust.

(c) Trustor shall pay all indebtedness arising under this Section immediately upon demand by Trustee or Beneficiary, together with interest thereon from the date such indebtedness

arises at the highest rate per annum payable under any Secured Obligation. Beneficiary may, at its option, add any such indebtedness to any Secured Obligation.

5.13 **SUBSTITUTION OF TRUSTEES.** From time to time, by a writing signed and acknowledged by Beneficiary and recorded in the Office of the Recorder of each County in which the Subject Property is situated, Beneficiary may appoint another trustee to act in the place and stead of Trustee or any successor. Such writing shall set forth the recordation date and any recording or other information required by law. The recordation of such instrument of substitution shall discharge Trustee herein named and shall appoint the new trustee as the trustee hereunder with the same effect as if originally named Trustee herein. A writing recorded pursuant to the provisions of this Section shall be conclusive proof of the proper substitution of such new Trustee.

5.14 **DUE ON SALE OR ENCUMBRANCE.** Except as permitted by the provisions of any Secured Obligation or applicable law, if the Subject Property or any interest therein shall be sold, transferred (including without limitation, where applicable, through sale or transfer of a majority or controlling interest of the corporate stock, or any general partnership, limited liability company or other similar interests, of Trustor), mortgaged, assigned, encumbered or leased, whether voluntarily, involuntarily or by operation of law (each of which actions and events is called a "**Transfer**"), without Beneficiary's prior written consent, THEN Beneficiary may, at its sole option, declare all Secured Obligations immediately due and payable in full. Trustor shall notify Beneficiary in writing of each Transfer within ten (10) business days of the date thereof.

5.15 **RELEASES, EXTENSIONS, MODIFICATIONS AND ADDITIONAL SECURITY.** Without notice to or the consent, approval or agreement of any persons or entities having any interest at any time in the Subject Property or in any manner obligated under any Secured Obligation (each, an "**Interested Party**"), Beneficiary may, from time to time, release any Interested Party from liability for the payment of any Secured Obligation, take any action or make any agreement extending the maturity or otherwise altering the terms or increasing the amount of any Secured Obligation, accept additional security, and enforce, waive, subordinate or release all or a portion of the Subject Property or any other security for any Secured Obligation. None of the foregoing actions shall release or reduce the personal liability of any Interested Party, nor release or impair the priority of the lien of this Deed of Trust upon the Subject Property.

5.16 **RECONVEYANCE.** Upon Beneficiary's written request, and solely to the extent required by applicable law upon surrender of this Deed of Trust and every note or other instrument setting forth any Secured Obligations to Trustee for cancellation, Trustee shall reconvey, without warranty, the Subject Property, or that portion thereof then covered hereby, from the lien of this Deed of Trust. The recitals of any matters or facts in any reconveyance executed hereunder shall be conclusive proof of the truthfulness thereof. To the extent permitted by law, the reconveyance may describe the grantee as "the person or persons legally entitled thereto." Neither Beneficiary nor Trustee shall have any duty to determine the rights of persons claiming to be rightful grantees of any reconveyance. When the Subject Property has been fully reconveyed, the last such reconveyance shall operate as a reassignment of all future Rents to the person or persons legally entitled thereto. Upon Beneficiary's demand, Trustor shall pay all costs and expenses incurred by Beneficiary in connection with any reconveyance.

5.17 **SUBROGATION.** Beneficiary shall be subrogated to the lien of all encumbrances, whether or not released of record, paid in whole or in part by Beneficiary pursuant to this Deed of Trust or by the proceeds of any Secured Obligation.

5.18 **MONEY LAUNDERING; SANCTIONS; CORRUPT PRACTICES**. Trustor represents, warrants, and agrees that Trustor (1) is not now and will not become the target of any trade or economic sanctions promulgated by the United Nations or the governments of the United States, the United Kingdom, the European Union, or any other jurisdiction in which the Parties are located or operate (collectively, "**Sanctions**"), (2) will comply now and will at all times comply with the requirements of all laws, rules, regulations and orders of any jurisdiction in which the Parties are located or doing business, or otherwise are applicable to Trustor, including, without limitation, (a) all Sanctions, (b) all laws and regulations that relate to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto, (c) the U.S. Foreign Corrupt Practices Act of 1977, as amended, (d) the U.K. Bribery Act of 2010, as amended, and (e) any other anti-bribery or anti-corruption laws and regulations, and (3) will not at any time directly or indirectly use any proceeds of any credit extended by Beneficiary for the purpose of (a) providing financing or otherwise funding any targets of Sanctions; or (b) providing financing or otherwise funding any transaction which would be prohibited by Sanctions or would otherwise cause Beneficiary or any of its affiliates to be in breach of any Sanctions.

ARTICLE 6 - DEFAULT PROVISIONS

6.1 **DEFAULT**. The occurrence of any of the following shall constitute a "**Default**" under this Deed of Trust: (a) Trustor shall fail to observe or perform any obligation or agreement contained herein; (b) any representation or warranty of Trustor herein shall prove to be incorrect, false or misleading in any material respect when made; or (c) any default in the payment or performance of any obligation, or any defined Event of Default, under any provisions of the Notes, the Loan Agreement, or any other contract, instrument or document executed in connection with, or with respect to, any Secured Obligation.

6.2 **RIGHTS AND REMEDIES**. Upon the occurrence of any Default, and at any time thereafter, Beneficiary and Trustee shall have all the following rights and remedies:

(a) With or without notice, to declare all Secured Obligations immediately due and payable in full.

(b) With or without notice, without releasing Trustor from any Secured Obligation and without becoming a mortgagee in possession, to cure any Default of Trustor and, in connection therewith: (i) to enter upon the Subject Property and to do such acts and things as Beneficiary or Trustee deems necessary or desirable to protect the security of this Deed of Trust, including without limitation, to appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust or the rights or powers of Beneficiary or Trustee hereunder; (ii) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the judgment of either Beneficiary or Trustee, is senior in priority to this Deed of Trust, the judgment of Beneficiary or Trustee being conclusive as between the parties hereto; (iii) to obtain, and to pay any premiums or charges with respect to, any insurance required to be carried hereunder; and (iv) to employ counsel, accountants, contractors and other appropriate persons to assist them.

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

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

(e) To take and possess all documents, books, records, papers and accounts of Trustor or the then owner of the Subject Property; to make or modify Leases of, and other agreements with respect to, the Subject Property upon such terms and conditions as Beneficiary deems proper; and to make repairs, alterations and improvements to the Subject Property deemed necessary, in Trustee's or Beneficiary's judgment, to protect or enhance the security hereof.

(f) To execute or cause Trustee to execute a written notice of such Default and of its election to cause the Subject Property to be sold to satisfy the Secured Obligations. Trustee shall give and record such notice as the law then requires as a condition precedent to a trustee's sale. When the minimum period of time required by law after such notice has elapsed, Trustee, without notice to or demand upon Trustor, except as otherwise required by law, shall sell the Subject Property at the time and place of sale fixed by it in the notice of sale, at one or several sales, either as a whole or in separate parcels and in such manner and order, all as directed by Beneficiary in its sole discretion, at public auction to the highest bidder for cash, in lawful money of the United States, payable at the time of sale. Except as required by law, neither Trustor nor any other person or entity shall have the right to direct the order in which the Subject Property is sold. Subject to requirements and limits imposed by law, Trustee may postpone any sale of the Subject Property by public announcement at such time and place of sale; provided, if the sale is postponed for longer than forty-five (45) days beyond the date designated in the notice sale, notice of the time, date, and place of sale shall be given in the same manner as the original notice of sale as required by Utah Code Annotated § 57-1-27. Trustee shall deliver to the purchaser at such sale a trustee's deed conveying the Subject Property or portion thereof so sold, but without any covenant or warranty, express or implied. The recitals in said deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustee, Trustor or Beneficiary, may purchase at such sale. 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 Annotated Code § 57-1-32 or other applicable law.

(g) To resort to and realize upon the security hereunder and any other security now or later held by Beneficiary concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both, and to apply the proceeds received in accordance with Section 6.3 hereof, all in such order and manner as Beneficiary shall determine in its sole discretion.

(h) Upon sale of the Subject Property at any judicial or non-judicial foreclosure, Beneficiary may credit bid (as determined by Beneficiary in its sole discretion) all or any portion of the Secured Obligations. In determining such credit bid, Beneficiary may, but is not obligated to, take into account all or any of the following: (i) appraisals of the Subject Property as such appraisals may be discounted or adjusted by Beneficiary in its sole underwriting discretion; (ii) expenses and costs incurred by Beneficiary with respect to the Subject Property prior to foreclosure; (iii) expenses and costs which Beneficiary anticipates will be incurred with respect to the Subject Property after foreclosure, but prior to resale, including without limitation, costs of structural reports and other due diligence, costs to carry the Subject Property prior to resale, costs

of resale (e.g., commissions, attorneys' fees, and taxes), Hazardous Materials clean-up and monitoring, deferred maintenance, repair, refurbishment and retrofit, and costs of defending or settling litigation affecting the Subject Property; (iv) declining trends in real property values generally and with respect to properties similar to the Subject Property; (v) anticipated discounts upon resale of the Subject Property as a distressed or foreclosed property; (vi) the existence of additional collateral, if any, for the Secured Obligations; and (vii) such other factors or matters that Beneficiary deems appropriate. Trustor acknowledges and agrees that: (A) Beneficiary is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (B) this Section does not impose upon Beneficiary any additional obligations that are not imposed by law at the time the credit bid is made; (C) the amount of Beneficiary's credit bid need not have any relation to any loan-to-value ratios specified in any agreement between Trustor and Beneficiary or previously discussed by Trustor and Beneficiary; and (D) Beneficiary's credit bid may be, at Beneficiary's sole discretion, higher or lower than any appraised value of the Subject Property.

6.3 APPLICATION OF FORECLOSURE SALE PROCEEDS. After deducting all costs, fees and expenses of Trustee, and of this trust, including costs of evidence of title and attorneys' fees in connection with a sale, all proceeds of any foreclosure sale shall be applied first, to payment of all Secured Obligations (including without limitation, all sums expended by Beneficiary under the terms hereof and not then repaid, with accrued interest at the highest rate per annum payable under any Secured Obligation), in such order and amounts as Beneficiary in its sole discretion shall determine; and the remainder, if any, to the person or persons legally entitled thereto.

6.4 APPLICATION OF OTHER SUMS. All Rents or other sums received by Beneficiary or any agent or receiver hereunder, less all costs and expenses incurred by Beneficiary or such agent or receiver, including reasonable attorneys' fees, shall be applied to payment of the Secured Obligations in such order as Beneficiary shall determine in its sole discretion; provided however, that Beneficiary shall have no liability for funds not actually received by Beneficiary.

6.5 NO CURE OR WAIVER. Neither Beneficiary's, Trustee's or any receiver's entry upon and taking possession of the Subject Property, nor any collection of Rents, insurance proceeds, condemnation proceeds or damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise of any other right or remedy by Beneficiary, Trustee or any receiver shall impair the status of the security of this Deed of Trust, or cure or waive any breach, Default or notice of default under this Deed of Trust, or nullify the effect of any notice of default or sale (unless all Secured Obligations and any other sums then due hereunder have been paid in full and Trustor has cured all other Defaults), or prejudice Beneficiary or Trustee in the exercise of any right or remedy, or be construed as an affirmation by Beneficiary of any tenancy, lease or option of the Subject Property or a subordination of the lien of this Deed of Trust.

6.6 COSTS, EXPENSES AND ATTORNEYS' FEES. Trustor agrees to pay to Beneficiary immediately upon demand the full amount of all payments, advances, charges, costs and expenses, including court costs and reasonable attorneys' fees (to include outside counsel fees and all allocated costs of Beneficiary's in-house counsel), expended or incurred by Trustee or Beneficiary pursuant to this Article 6, whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Beneficiary or any other person) relating to Trustor or in any way affecting any of the Subject Property or Beneficiary's ability to exercise any of its rights or remedies with respect thereto. All of the foregoing shall be paid by Trustor with interest from the

date of demand until paid in full at the highest rate per annum payable under any Secured Obligation.

6.7 **POWER TO FILE NOTICES AND CURE DEFAULTS.** Trustor hereby irrevocably appoints Beneficiary and its successors and assigns as Trustor's true attorney-in-fact to perform any of the following powers, which agency is coupled with an interest: (a) to execute and/or record any notices of completion, cessation of labor, or any other notices that Beneficiary deems appropriate to protect Beneficiary's interest; and (b) upon the occurrence of any event, act or omission which with the giving of notice or the passage of time, or both, would constitute a Default, to perform any obligation of Trustor hereunder; provided however, that Beneficiary, as such attorney-in-fact, shall only be accountable for such funds as are actually received by Beneficiary, and Beneficiary shall not be liable to Trustor or any other person or entity for any failure to act under this Section.

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

ARTICLE 7 - MISCELLANEOUS PROVISIONS

7.1 **NO MERGER.** No merger shall occur as a result of Beneficiary's acquiring any other estate in, or any other lien on, the Subject Property unless Beneficiary specifically consents to a merger in writing.

7.2 **REAPPRAISALS; FEES AND EXPENSES.** Trustor agrees that Beneficiary may obtain appraisals and reappraisals and perform property evaluations and appraisal reviews of the Subject Property when required by the regulations of the Federal Reserve Board or the Office of the Comptroller of the Currency, or any other regulatory agency, or at such other times as Beneficiary may reasonably require. Appraisals shall be performed by an independent third party appraiser selected by Beneficiary; property evaluations and appraisal reviews may be performed by third party appraisers or appraisers and staff of Beneficiary. The fees, expenses and other cost of such appraisals, reappraisals, property evaluations and appraisal reviews shall be paid by Trustor. In addition, Trustor shall be responsible for payment of all fees and expenses of Beneficiary and third parties relating to inspecting the Subject Property, environmental review, title policies and endorsements (or title searches, abstracts of title or legal opinions of title where applicable), and monitoring the payment of property taxes, and any governmental taxes, fees and recording costs relating to this Deed of Trust.

7.3 **EXECUTION OF DOCUMENTS.** Trustor agrees, upon demand by Beneficiary or Trustee, to execute any and all documents and instruments required to effectuate the provisions hereof.

7.4 **RIGHT OF INSPECTION.** Beneficiary or its agents or employees may enter onto the Subject Property at any reasonable time for the purpose of inspecting the Subject Property and ascertaining Trustor's compliance with the terms hereof.

7.5 **NOTICES.** All notices, requests and demands which Trustor or Beneficiary is required or may desire to give to the other party must be in writing, delivered to Beneficiary at the following address:

Wells Fargo Bank, National Association
 86 N. University Ave., Suite 210
 Provo, Utah 84601
 MAC U1501-021
 Attn: Auston L Belka

and to Trustor at its address set forth at the signature lines below, or at such other address as either party shall designate by written notice to the other party in accordance with the provisions hereof.

7.6 **SUCCESSORS; ASSIGNMENT.** This Deed of Trust shall be binding upon and inure to the benefit of the heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto; provided however, that this Section does not waive the provisions of Section 5.14 hereof. Beneficiary reserves the right to sell, assign, transfer, negotiate or grant participations in all or any part of, or any interest in, Beneficiary's rights and benefits under the Notes, any and all other Secured Obligations and this Deed of Trust. In connection therewith, Beneficiary may disclose all documents and information which Beneficiary now has or hereafter acquires relating to the Subject Property, all or any of the Secured Obligations and/or Trustor and, as applicable, any partners, joint venturers or members of Trustor, whether furnished by any Trustor or otherwise.

7.7 **RULES OF CONSTRUCTION.** (a) When appropriate based on the identity of the parties or other circumstances, the masculine gender includes the feminine or neuter or both, and the singular number includes the plural; (b) the term "Subject Property" means all and any part of or interest in the Subject Property; (c) all Section headings herein are for convenience of reference only, are not a part of this Deed of Trust, and shall be disregarded in the interpretation of any portion of this Deed of Trust; (d) if more than one person or entity has executed this Deed of Trust as "Trustor," the obligations of all such Trustors hereunder shall be joint and several; (e) all terms of Exhibit A, and each other exhibit and/or rider attached hereto and recorded herewith, are hereby incorporated into this Deed of Trust by this reference; and (f) any reference to a statute, regulation or other similar provision shall refer to such statute, regulation or other such provision as it may be amended, modified, re-enacted or replaced.

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

7.9 **RECOURSE TO SEPARATE PROPERTY.** Any married person who executes this Deed of Trust as a Trustor and who is obligated under any Secured Obligation agrees that any money judgment which Beneficiary or Trustee obtains pursuant to the terms of this Deed of Trust or any other obligation of that married person secured by this Deed of Trust may be collected by execution upon that person's separate property, and any community property of which that person is a manager.

7.10 **NON-RESIDENTIAL USE.** For purposes of Utah Code Annotated §§ 57-1-25 and § 78B-6-901.5, Trustor agrees that the stated purpose for which this Deed of Trust was given is not to finance residential rental property.

7.11 **GOVERNING LAW.** This Deed of Trust shall be governed by and construed in accordance with the laws of the State of Utah.

7.12 **COUNTERPARTS.** This Deed of Trust may be executed in any number of separate copies, each of which shall be effective as an original, but all of which taken together shall constitute a single document. An electronic transmission or other facsimile of this document or any related document shall be deemed an original and shall be admissible as evidence of the document and the signer's execution.

7.13 **SUPPLEMENTAL PROVISIONS CONCERNING CROSS-COLLATERALIZATION AND PERSONAL PROPERTY.**

(a) The definition of "indebtedness" herein additionally includes, without limitation, all liability and obligations of Trustor, or any of them, arising under or in connection with any "swap agreement" (as defined in 11 U.S.C. Section 101) at any time entered into with Beneficiary in connection with the Notes intended to be secured by this Deed of Trust.

(b) Notwithstanding anything to the contrary in this Deed of Trust, any cross-collateralization provision and any other provisions contained herein expanding the scope of the secured obligations beyond the Notes, any related Swap Agreements (as defined above), and obligations to protect and preserve collateral, shall have no force or effect.

(c) Additionally, notwithstanding anything to the contrary herein, if at any time this Deed of Trust grants liens or security interests upon collateral consisting of a building or mobile home as defined in the National Flood Insurance Act (as amended) and its implementing regulations (collectively, the "**Act**") located in an area designated by the Administrator of the Federal Emergency Management Agency as a special flood hazard area which requires flood insurance pursuant to the terms of the Act (a "**Covered Structure**"), then while it is subject to such designation, the term "personal property" as used herein shall not include any items of personal property located in such Covered Structure unless all applicable requirements of the Act, if any, have been satisfied with respect to such items of personal property.

7.14 **ARBITRATION.**

(a) **Arbitration - Binding Arbitration.** Beneficiary and each party to this Deed of Trust hereby agree, upon demand by any party, to submit any Dispute to binding arbitration in accordance with the terms of this Section 7.14. Arbitration may be demanded before the institution of a judicial proceeding, or during a judicial proceeding, but not more than sixty (60) days after service of a complaint, third party complaint, cross-claim, or any answer thereto, or any amendment to any of such pleadings. A "**Dispute**" shall include any dispute, claim or controversy of any kind, whether in contract or in tort, legal or equitable, now existing or hereafter arising, relating in any way to any aspect of this Deed of Trust, or any related note, instrument or agreement incorporating this Section 7.14 (the "**Documents**"), or any renewal, extension, modification or refinancing of any indebtedness or obligation relating thereto, including without limitation, their negotiation, execution, collateralization, administration, repayment, modification, extension, substitution, formation, inducement, enforcement, default or termination, or any request for additional credit. This provision is a material inducement for the parties entering

into the transactions relating to this Deed of Trust. In the event of a court ordered arbitration, the party requesting arbitration shall be responsible for timely filing the demand for arbitration and paying the appropriate filing fee within thirty (30) days of the abatement order or the time specified by the court; the party's failure to do so shall result in that party's right to demand arbitration being automatically terminated with respect to such Dispute. DISPUTES SUBMITTED TO ARBITRATION ARE NOT RESOLVED IN COURT BY A JUDGE OR JURY. TO THE EXTENT ALLOWED BY APPLICABLE LAW, THE PARTIES IRREVOCABLY AND VOLUNTARILY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY DISPUTE ARBITRATED PURSUANT TO THIS SECTION 7.14.

(b) **Governing Rules.** Any arbitration proceeding will (i) be governed by the Federal Arbitration Act (Title 9 of the United States Code), notwithstanding any conflicting choice of law provision in any of the documents between the parties; and (ii) be conducted by the American Arbitration Association ("AAA"), or such other administrator as the parties shall mutually agree upon, in accordance with the AAA's commercial dispute resolution procedures, unless the claim or counterclaim is at least \$1,000,000.00 exclusive of claimed interest, arbitration fees and costs, in which case the arbitration shall be conducted in accordance with the AAA's optional procedures for large, complex commercial disputes (the commercial dispute resolution procedures or the optional procedures for large, complex commercial disputes are referred to herein, as applicable, as the "**Rules**"). If there is any inconsistency between the terms hereof and the Rules, the terms and procedures set forth herein shall control. Arbitration proceedings hereunder shall be conducted at a location mutually agreeable to the parties, or if they cannot agree, then at a location selected by the AAA in the state of the applicable substantive law primarily governing the Notes. Any party who fails or refuses to submit to arbitration following a demand by any other party shall bear all costs and expenses incurred by such other party in compelling arbitration of any Dispute. The arbitrator shall award all costs and expenses of the arbitration proceeding.

(c) **No Waiver of Provisional Remedies, Self-Help and Foreclosure.** The arbitration requirement does not limit the right of any party to (i) foreclose against real or personal property collateral; (ii) exercise self-help remedies relating to collateral or proceeds of collateral such as setoff or repossession; or (iii) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment or the appointment of a receiver, before during or after the pendency of any arbitration proceeding. This exclusion does not constitute a waiver of the right or obligation of any party to submit any Dispute to arbitration or reference hereunder, including those arising from the exercise of the actions detailed in sections (i), (ii) and (iii) of this paragraph.

(d) **Arbitrator Qualifications and Powers.** Any arbitration proceeding in which the amount in controversy is \$5,000,000.00 or less will be decided by a single arbitrator selected according to the Rules, and who shall not render an award of greater than \$5,000,000.00. Any Dispute in which the amount in controversy exceeds \$5,000,000.00 shall be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations. Every arbitrator shall be a neutral practicing attorney or a retired member of the state or federal judiciary, in either case with a minimum of ten years of experience in the substantive law applicable to the subject matter of the Dispute. The arbitrator will determine whether or not an issue is arbitratable and will give effect to the statutes of limitation in determining any claim. In any arbitration proceeding the arbitrator will decide (by documents only or with a hearing at the arbitrator's discretion) any pre-hearing motions which are similar to motions to dismiss for failure to state a claim or motions for summary adjudication. The arbitrator shall resolve all Disputes in accordance with the applicable substantive law and may grant any remedy or relief that a court of such state could order or grant within the scope hereof and such ancillary relief as is necessary to make effective any award. The arbitrator shall also have the

power to award recovery of all costs and fees, to impose sanctions and to take such other action as the arbitrator deems necessary to the same extent a judge could pursuant to the Federal Rules of Civil Procedure, the applicable state rules of civil procedure, or other applicable law. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

(e) **Discovery.** In any arbitration proceeding discovery will be permitted in accordance with the Rules. All discovery shall be expressly limited to matters directly relevant to the Dispute being arbitrated and must be completed no later than twenty (20) days before the hearing date. Any requests for an extension of the discovery periods, or any discovery disputes, will be subject to final determination by the arbitrator upon a showing that the request for discovery is essential for the party's presentation and that no alternative means for obtaining information is available.

(f) **Class Proceedings and Consolidations.** No party hereto shall be entitled to join or consolidate disputes by or against others in any arbitration, or to include in any arbitration any dispute as a representative or member of a class, or to act in any arbitration in the interest of the general public or in a private attorney general capacity.

(g) **Small Claims Court.** Any party may require that a Dispute be resolved in Small Claims Court if the Dispute and related claims are fully within that court's jurisdiction.

(h) **Real Property Collateral; Judicial Reference.** Notwithstanding anything herein to the contrary, no Dispute shall be submitted to arbitration if the Dispute concerns indebtedness secured directly or indirectly, in whole or in part, by any real property unless (i) the holder of the mortgage, lien or security interest specifically elects in writing to proceed with the arbitration, or (ii) all parties to the arbitration waive any rights or benefits that might accrue to them by virtue of the single action rule statute of Utah, thereby agreeing that all indebtedness and obligations of the parties, and all mortgages, liens and security interests securing such indebtedness and obligations, shall remain fully valid and enforceable. If any such Dispute is not submitted to arbitration, the Dispute shall be referred to a master in accordance with Utah Rule of Civil Procedure 53, as amended or replaced from time to time, and this general reference agreement is intended to be specifically enforceable. A master with the qualifications required herein for arbitrators shall be selected pursuant to the AAA's selection procedures. Judgment upon the decision rendered by a master shall be entered in the court in which such proceeding was commenced in accordance with Utah Rule of Civil Procedure 53(e), as amended or replaced from time to time.

(i) **Miscellaneous.** To the maximum extent practicable, the AAA, the arbitrators and the parties shall take all action required to conclude any arbitration proceeding within one hundred eighty (180) days of the filing of the Dispute with the AAA. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. If more than one agreement for arbitration by or between the parties potentially applies to a Dispute, the arbitration provision most directly related to the documents between the parties or the subject matter of the Dispute shall control. This arbitration provision shall survive the repayment of the Notes and the termination, amendment or expiration of any of the Documents or any relationship between the parties.

7.15 **CONSULTATION WITH COUNSEL.** Trustor acknowledges and agrees that it has had an opportunity to review and consider the terms and provisions of this Deed of Trust and each related Loan Document and to consult with counsel of its choice, if desired, and to suggest changes to the structure and term of this Deed of Trust. Trustor warrants and agrees that its execution of this Deed of Trust and any related Loan Document is made voluntarily and with full knowledge of the significance and effect of such agreements.

[Signature Page Follows]

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

"TRUSTOR"

Address

Santaquin Market, Inc.,
a Utah corporation

1050 South State Street
Mount Pleasant, Utah 84647
Attn: W. Scott Hymas

By: Walter Scott Hymas President
Walter Scott Hymas, President

STATE OF UTAH

COUNTY OF Sanpete :ss.

The foregoing instrument was acknowledged before me this 30 day of March, 2020, by Walter Scott Hymas, President of Santaquin Market, Inc., a Utah corporation.

Eva Jane Beesley
NOTARY PUBLIC
Residing at:

My commission expires: 02/05/2023

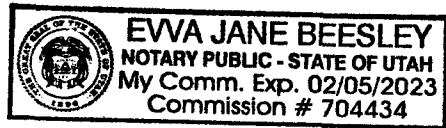


EXHIBIT A
(Description of Property)

All that certain real property located in Utah County, Utah and more particularly described as follows:

All of future Lot 1, of the forthcoming Ridley's Subdivision being described temporarily metes and bounds as follows:

A part of the Northeast quarter of Section 1, Township 10 South, Range 1 East, Salt Lake Base and Meridian, U.S. Survey in Utah County, Utah:

Beginning at a point on the East line of 400 East Street as dedicated at a point located 1737.87 feet South 00°30'50" East along the quarter section line; and 29.78 feet South 89°29'04" East from the North quarter corner of said Section 1; and running thence South 89°29'04" East 666.49 feet to a point of curvature; thence Southeasterly along the arc of a 115.00 foot radius curve to the right a distance of 94.95 feet (central angle equals 47°18'24" and long chord bears South 65°49'52" East 92.28 feet) to a point of tangency; thence South 42°10'40" East 36.60 feet to the Westerly line of 500 East Street as dedicated; thence along said Westerly line the following five courses: (1) South 47°49'20" West 105.21 feet; (2) South 54°56'50" West 88.68 feet; (3) South 47°49'20" West 141.27 feet; (4) South 19°16'14" West 52.56 feet and (5) Southwesterly along the arc of a 233.00 foot radius curve to the left a distance of 112.26 feet (center bears South 62°13'40" East, central angle equals 27°36'17" and long chord bears South 13°58'12" West 111.18 feet) to a point of tangency on the West line of 500 East Street as it exists at 31.00 foot half-width; thence South 00°10'03" West 142.84 feet along said West line; thence North 89°49'57" West 351.40 feet; thence North 00°10'03" East 258.59 feet; thence North 89°49'57" West 120.51 feet to said East line of 400 East Street; thence North 06°32'41" West 58.19 feet along said East line; thence South 89°29'04" East 127.50 feet; thence North 00°30'56" East 237.41 feet; thence North 89°29'04" West 127.50 feet to said East line of 400 East Street; thence North 00°30'56" East 32.50 feet along said East line to the point of beginning.