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Mary Ann Trussell, Summit County Utah Recorder

08/20/2014 02:43:33 PM Fee \$25.00

By BACKMAN FTP

Electronically Recorded

When Recorded, Mail to:  
U.S. Bank National Association  
170 South Main Street, 6<sup>th</sup> Floor  
Salt Lake City, Utah 84101  
Attn: Nate Quist

5-0051032

OT-35

Space above this line for use of the Recorder

### ASSIGNMENT OF LEASES AND RENTS

This Assignment of Leases and Rents (this "*Agreement*") is entered into as of August 13, 2014, by and between Snow Mountain L.C., a Utah limited liability company ("*Assignor*"), and U.S. Bank National Association ("*Assignee*").

#### Recitals

A. Assignor is obligated to Assignee pursuant to the terms of a Loan Agreement and Term Promissory Note, both dated August 13, 2014 (collectively the "*Loan Agreement*"), in the stated principal amount of \$3,886,760.00 (the "*Loan*"), with respect to the real property encumbered by that certain Trust Deed, Assignment of Rents, Security Agreement and Financing Statement dated August 13, 2014 (the "*Trust Deed*"), more fully described in "Exhibit A" attached and incorporated herein by this reference (the "*Property*").

B. Assignor has entered into, with respect to the Property, a Lease Agreement, dated as of November 19, 2004 between Assignor and Oakley School, LLC, as amended and assigned to Interchange Oakley, LLC ("*Tenant*") pursuant to an Assignment, Assumption, and Amendment of Lease Agreement dated August 1, 2013 (the "*Lease*").

C. Assignee requires a separate assignment of the rights arising under the Lease together with a pledge of and security interest in all rights, interests and title of the Assignor with respect to deposits, payments and other interests and assets connected with the same.

#### Agreement

In consideration of the foregoing and of the mutual covenants, promises and agreements hereinafter set forth, the parties hereto agree as follows:

1. Collateral Assignment, Pledge and Grant of Security Interest. As additional collateral for Assignor's obligations to Assignee under the Loan, the Loan Agreement and the Trust Deed, Assignor hereby assigns and transfers, pledges and grants a security interest to Assignee in all of Assignor's right, title and interest, whether now owned or hereafter acquired, in, to and under the Lease and any and all other leases, licenses, occupancy or other use arrangements of or for the Property, or any part or portion thereof, as the same may be amended and supplemented from time to time, including all rents, fees or other sums payable under or in connection therewith (collectively, the Lease, any other leases with respect to the Property, and all such rents, fees and other rights to payment are referred to herein as the "*Contract Collateral*"), and grants to Assignee a first priority pledge of and security interest in the Contract Collateral, all general intangibles and accounts now or hereafter relating thereto, and all proceeds thereof.

2. Other Action. Assignor shall take all such other actions and execute such other documents as shall be reasonably required by Assignee to complete and perfect the assignment and security interests granted hereby in the Contract Collateral and in the proceeds of the same.

3. Representations, Warranties and Covenants of Assignor. Assignor hereby represents, warrants and covenants to Assignee, as of the effective date of this Assignment as follows:

- a. The Lease represents, or will, upon execution, represent a valid, binding and enforceable agreement, subject to bankruptcy law and equitable principles.
- b. The Lease is or will be assignable by the Assignor.
- c. There are no amendments to the Lease which have not been delivered to Assignee.

4. Events of Default. An Event of Default under the Loan Agreement or the Trust Deed shall constitute an Event of Default hereunder.

5. Rights Upon Default. Upon the occurrence of any Event of Default, Assignee may pursue any and all remedies available to it (or to Assignor) at law or in equity to enforce the terms of the Contract Collateral. Assignee shall be entitled to all of the rights of Assignor under the Lease including, without limitation, the right to enforce remedies under the Lease in the event of any default thereunder. Assignee does not, however, assume any obligations of Assignor under or with respect to the Contract Collateral, and Assignor hereby agrees to indemnify, defend and hold Assignee harmless from and against any third party claims, suits, actual costs, damages (excluding lost profits and other consequential damages), liabilities and demands whatsoever (including reasonable attorneys' fees) incurred by or asserted against Assignee in connection with the Contract Collateral, except as and to the extent such assertions against the Assignee are due to the gross negligence or willful misconduct of Assignee, or after Assignee has taken possession of the Property or after foreclosure, deed-in-lieu of foreclosure or repayment of the Loan and are not from other than the conduct, neglect or omissions of Assignor.

6. Transfer of Contract Collateral With Indebtedness. Upon the transfer of Assignee's interest in the Loan, which transfer may be made at any time by Assignee, Assignee may transfer all of the Contract Collateral, and the transferee shall be vested with all the rights and powers of Assignee hereunder with respect to such Contract Collateral.

7. Miscellaneous. The rights, powers, and remedies given to Assignee by this Agreement, the Loan Documents and associated documents and arrangements shall be in addition to all rights, powers and remedies given to Assignee by virtue of any statute or rule of law. Any forbearance, failure or delay by Assignee in exercising any right, power or remedy hereunder shall not be deemed to be a waiver of any such right, power or remedy; and any single or partial exercise of any right, power or remedy hereunder shall not preclude the further exercise thereof; and every right, power and remedy of Assignee shall continue in full force and effect until such right, power or remedy is specifically waived by an instrument in writing executed by Assignee. This Agreement shall be governed by the laws of the State of Utah. This Agreement shall be binding upon and inure to the benefit of Assignee, Assignor and their respective successors and permitted assigns, provided Assignor shall not be permitted to assign its rights or delegate its duties hereunder without the prior written consent of Assignee. This Agreement may be executed by the parties in separate counterparts and shall be effective upon the affixation of signatures by

each party to a complete counterpart and such counterparts shall constitute a single integrated document and agreement.

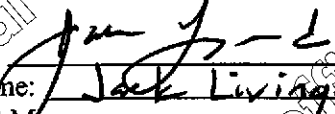
10. Termination. Upon payment in full and termination of the Loan (including the Loan Agreement, the Trust Deed and related documents or agreements) this Agreement shall automatically terminate, without any further action of any kind on the part of either Assignor or Assignee.

**\*\*Signatures on following page\*\***

IN WITNESS WHEREOF, the parties cause the execution of this Agreement on the day and date first set forth hereinabove.

ASSIGNOR:

SNOW MOUNTAIN L.C.

By:   
Name: Jack Livingston  
Its: Manager

ASSIGNEE:

U.S. BANK NATIONAL ASSOCIATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

ACKNOWLEDGMENTS

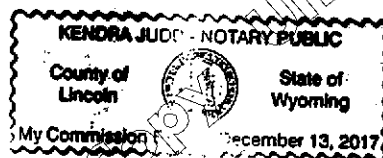
STATE OF UTAH Wyoming )  
: ss.  
COUNTY OF Teton )

The foregoing instrument was acknowledged before me this 14 day of August, 2014, by Jack Livingood the Manager of Snow Mountain L.C., a Utah limited liability company.

*[Signature]*  
\_\_\_\_\_  
Notary Public

My commission expires: 12.13.17

Residing at: Lincoln County, Wyoming



STATE OF UTAH )  
: ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of August, 2014, by \_\_\_\_\_ as \_\_\_\_\_ of U.S. Bank National Association.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Residing at: \_\_\_\_\_

1293278.02

IN WITNESS WHEREOF, the parties cause the execution of this Agreement on the day and date first set forth hereinabove.

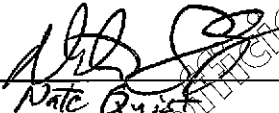
ASSIGNOR:

SNOW MOUNTAIN L.C.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: Manager

ASSIGNEE:

U.S. BANK NATIONAL ASSOCIATION

By:  \_\_\_\_\_  
Name: Nate Quinn  
Its: VP

ACKNOWLEDGMENTS

STATE OF UTAH )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of August, 2014, by \_\_\_\_\_,  
the Manager of Snow Mountain L.C., a Utah limited liability company.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Residing at: \_\_\_\_\_

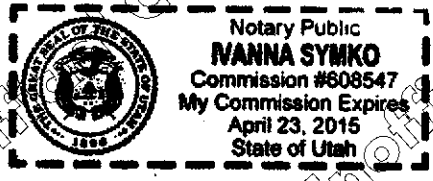
STATE OF UTAH )  
 : ss.  
COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 18 day of August, 2014, by  
Nate Quist as VP of U.S. Bank National Association.

Yvanna Symko  
Notary Public

My commission expires: April 23, 2015

Residing at: Salt Lake City



1293278.02

**EXHIBIT A**

**PROPERTY DESCRIPTION**

Real property located in Summit County, Utah:

**PARCEL 1:**

Beginning at a point which is South 1800.67 feet and West 950.24 feet from the Northeast corner of Section 20, Township 1 South, Range 6 East, Salt Lake Base and Meridian (said point being on the Southerly line of Weber Canyon Road and an existing fence corner) all courses are along an old existing fence line and running thence South 01 deg. 39' 12" West 1582.46 feet; thence South 00 deg. 12' 27" West 67.85 feet; thence South 01 deg. 36' 10" West 485.60 feet; thence South 88 deg. 22' 42" West 359.66 feet; thence North 00 deg. 21' 21" East 347.07 feet; thence North 01 deg. 14' 10" East 1579.79 feet; thence North 06 deg. 52' 28" East 90.57 feet to the Southerly line of Weber Canyon Road; thence North 70 deg. 12' 37" East 103.33 feet along said line; thence North 71 deg. 08' 10" East 290.28 feet along said line to the point of beginning.

Being the proposed plat of Cottonwood Meadows Subdivision

**PARCEL 2:**

Beginning at a point which is South 1800.67 feet and West 950.24 feet from the Northeast corner of Section 20, Township 1 South, Range 6 East, Salt Lake Base and Meridian to the Southerly line of Weber County Road and thence South 71 deg. 08' 10" West 290.28 feet; and South 70 deg. 12' 37" West 103.33 feet along said Southerly line from the Northeast corner of Section 20, Township 1 South, Range 6 East, Salt Lake Base and Meridian (said point being on the Southerly line of Weber Canyon Road and an existing fence corner); thence South 06 deg. 52' 28" West 90.57 feet, and South 01 deg. 14' 10" West 1552.25 feet along an existing fence; thence South 65 deg. 01' 55" West 219.34 feet; thence North 01 deg. 14' 10" East 1643.13 feet to the Southerly line of Weber Canyon Road and on existing fence; thence North 66 deg. 11' 40" East 227.04 feet along said Southerly line of Weber Canyon Road and on existing fence to the point of beginning.

Parcel No.: OT-35