

Recording Requested By and Mail to:

Antelope Layton, LLC
10934 Fern Ridge Dr.
South Jordan, Utah 84009
Attn: Alma T. Jeppson

Tax Parcel Nos. 09-022-0171; 09-022-0178; 09-454-0001

1020599- JH

(space above for recorder's use only)

MAINTENANCE AGREEMENT

This MAINTENANCE AND EASEMENT AGREEMENT (this "**Agreement**") is made as of the 4 day of JUNE, 2021 (the "**Effective Date**"), by SERITAGE KMT FINANCE LLC, a Delaware limited liability company ("**Seritage**"), and ANTELOPE LAYTON, LLC, a Utah limited liability company ("**Antelope**"), and together with Seritage, the "**Parties**" and each a "**Party**".

RECITALS

A. Antelope is the owner of certain real property in Davis County, Utah, as more particularly described in Exhibit A attached hereto (the "**Property**"). The property located adjacent to the Property is owned by Seritage, as more particularly described on Exhibit B attached hereto (the "**Adjacent Property**", together with the Property, the "**Shopping Center**").

B. The Shopping Center is encumbered by that certain Covenants for Operation, Maintenance and Reciprocal Easements recorded December 11, 1980 as Entry No. 581474 in Book 850 at Page 605 of the Official Records of Davis County, as amended by that certain Amendment to Covenants for Operation, Maintenance and Reciprocal Easements recorded October 28, 1982 as Entry No. 625584 in Book 917 at Page 984 of the Official Records of Davis County, as amended by that certain Second Amendment to Covenants for Operation, Maintenance and Reciprocal Easements recorded December 31, 1992 as Entry No. 1010660 in Book 1569 at Page 996 of the Official Records of Davis County, and as amended by that certain Assignment and Assumption of Recorded Agreements and Documents recorded July 15, 2015 as Entry No. 2880348 in Book 6309 at Page 1185 of the Official Records of Davis County (collectively, "**COMRE**").

C. The parties have agreed to record this Agreement against the Shopping Center to provide record notice of certain rights.

AGREEMENT

1. **Recitals.** The foregoing recitals are incorporated herein and are a part of this Agreement.
2. **Payment Obligations.**
 - a. **Definitions.**
 - (i) **Parcel.** The Property or the Adjacent Property or any portion thereof that becomes a standalone, subdivided parcel.

- (ii) **Square Footage Area.** The actual number of square feet of a Parcel within the Shopping Center.
 - (iii) **Pro Rata Share.** The proportion that the Square Footage Area of a Parcel bears to the Square Footage Area of all the Parcels of the Shopping Center. The Parties acknowledge that each Party's Pro Rata Share may change based on changes to the Square Footage Area of the Shopping Center. As of the Effective Date, Seritage's Pro Rata Share is 51.29% and Antelope's Pro Rata Share is 48.71%. In the event either Party subdivides their respective Parcel (subject in all events to the terms and conditions of the COMRE), then the Square Footage Area and Pro Rata Share of the Parties shall be recalculated within thirty (30) days following completion of such subdivision.
- b. **Storm Water.** Subject to the terms and conditions of this Agreement, Seritage shall pay to Antelope Seritage's Pro Rata Share of Storm Water Charges (hereinafter defined) for the Shopping Center, billed and paid in six (6) month intervals, as hereafter provided. Commencing on January 30, 2021, and continuing for each and every period of six (6) months thereafter, Antelope shall deliver to Seritage an invoice for Seritage's Pro Rata Share of Storm Water Charges for the Shopping Center ("**Storm Water Invoice**"), together with copies of the water and sewer utility service bills for the Shopping Center for the immediately preceding 6-month period, including the charges for commercial water, commercial sewer, commercial storm sewer and commercial back flow (collectively, the "**Storm Water Charges**"). Seritage shall, within thirty (30) days following receipt of such Storm Water Invoice and utility service bills ("**Storm Water Deadline**"), either: (i) contest such Storm Water Invoice in writing in the event of a discrepancy between the Storm Water Invoice and the copies of the water and sewer utility service bills; or (ii) reimburse Antelope for Seritage's Pro Rata Share of such Storm Water Charges. If Seritage contests any Storm Water Charges by the Storm Water Deadline, then (a) the Parties shall use diligent good faith efforts to resolve such contest, and (b) Seritage shall pay such Storm Water Charges promptly after (and in accordance with) the resolution of such contest. All Storm Water Charges payable under this Agreement shall be payable at Antelope's address as set forth in Section 6 or at such other address as Antelope may designate by giving notice to Seritage. Seritage shall only be responsible for Storm Water Charges that are billed to Seritage in accordance with this Agreement within 12-months following the date such Storm Water Charges are due to Layton City ("**Storm Water Payment Expiration**"). Following such Storm Water Payment Expiration, Seritage shall have no obligation to make any payments to Antelope for such Storm Water Charges that were not provided to Seritage prior to the Storm Water Payment Expiration.
3. **Default.** If Seritage fails to pay any Storm Water Charges pursuant to and in accordance with the terms of Section 3 of this Agreement, and such failure continues for thirty (30) days after delivering written notice thereof to Seritage, then Antelope shall have the right to (a) charge interest at a rate the lower of (i) fifteen percent (15%) per annum, or (ii) the highest rate allowed by applicable law, from the date of such failed Storm Water Charges payment until the date Seritage makes such failed Storm Water Charges payment, and (b) pursue all rights and remedies available at law or in equity including terminating this Agreement. If Antelope fails to maintain the parking lot lights on the Property as required pursuant to

Section 4 of this Agreement, Seritage shall have the right to pursue all rights and remedies available at law or in equity including terminating this Agreement.

4. **Parking Lot Lighting Requirements.** During the Term (as hereinafter defined) of this Agreement, Antelope shall maintain, at its sole cost and expense, the parking lot lights on the Property fully illuminated from dusk to 11:00 p.m. (unless the Parties agree upon a different time). Antelope shall keep any exterior building security lights on from dusk until dawn. During the Term of this Agreement, Seritage grants an irrevocable license to Antelope for the purpose of permitting the lighting from the Property to incidentally shine on the Adjacent Property.

5. **Modification; Amendments.** This Agreement shall not be amended or modified without the express written agreement of (a) the then-current owner of record of the fee interest of the Property, and (b) the then-current owner of record of the fee interest of the Adjacent Property, evidenced by a document that has been fully executed and acknowledged by all such record owners and recorded in the Public Records of Davis County, Utah.

6. **Notice.** Any notification provided for herein to be given to Seritage or Antelope shall be made in writing and shall be deemed to have been given when mailed postpaid by certified mail, return receipt requested, or sent by a nationally-recognized overnight courier company (provided a receipt is given therefor), or by email (provided that email notice shall not be effective unless a copy of such notice is concurrently sent in accordance with this sentence), as follows:

To Seritage: c/o Seritage Growth Properties
500 Fifth Avenue – Suite 1530
New York, NY 10110
Attn: James Bry and Greg Tocco
E-mail: jbry@seritage.com, gtocco@seritage.com

And With a Copy To: JLL
6365 Halcyon Way
Suite 970
Alpharetta, GA 30005
Attn: Lisa Clutchey and Alison Corbett
E-mail: Lisa.Clutchey@am.jll.com; Alison.Corbett@am.jll.com

To Antelope: Antelope Layton, LLC
10934 Fern Ridge Dr.
South Jordan, Utah 84009
Attn: Alma T. Jeppson
Email: almajeppson@gmail.com

7. **Term; Runs with the Land.** The covenants, conditions, restrictions and other terms and provisions contained in this Agreement shall be effective as of the Effective Date and shall remain in full force and effect thereafter until the later of (a) November 19, 2055 or (b) the expiration of the COMRE (the "**Term**"), unless this Agreement is modified, amended, canceled or terminated by the written consent of Seritage and Antelope (or their respective successors and/or assigns). The Property and the Adjacent Property shall be subject to the terms and conditions of this Agreement and the rights, benefits, covenants, obligations and liabilities set forth in this Agreement shall (a) be binding on each of Seritage, its successors and assigns, Antelope and its successors and assigns, each subsequent owner of the Property and each subsequent owner of the Adjacent Property, (b) run with the land of the Property and the Adjacent Property,

and (c) constitute "covenants running with the land". The singular number includes the plural and the masculine gender includes the feminine and neuter.

8. **Estoppel Certificates.** Within thirty (30) days of receipt by one Party (the "**Responding Party**") of a written request from the other Party (the "**Requesting Party**"), the Responding Party shall provide the Requesting Party a certificate binding upon the Responding Party stating: (a) to the best of the Responding Party's knowledge, whether any Party to this Agreement is in default or violation of this Agreement and if so identifying such default or violation; (b) that this Agreement is in full force and effect and identifying any amendments to the Agreement as of the date of such certificate; (c) confirmation of the amount of the then-current Storm Water Charges and the last payment thereof; and (d) such other factual matters as the Requesting Party may reasonably request.

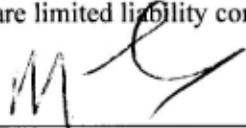
9. **Interpretation.** This Agreement and the rights and obligations of the parties hereunder shall be interpreted, construed and enforced in accordance with the laws of the State of Utah, without giving effect to any principles of conflicts of laws. If any provision of this Agreement or the application thereof to any entity, person or circumstance shall be invalid or unenforceable to any extent, then the remainder of this Agreement and the application of such provisions to other entities, persons or circumstances shall not be affected thereby, and shall be enforced to the extent permitted by law.

10. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

[remainder of this page intentionally left blank; signatures follow]

SERITAGE:

SERITAGE KMT FINANCE LLC,
a Delaware limited liability company

By: 
Name: Matthew Fernand
Its: Vice President

STATE OF NEW YORK)
 New York) ss.
COUNTY OF ~~NASSAU~~)

On this 3rd day of June, 2021, personally appeared before me Matthew Fernand, whose identity is personally known to me or proved on the basis of satisfactory evidence, and who acknowledged before me that he signed the foregoing instrument in his capacity as the Vice President of **SERITAGE KMT FINANCE LLC**, a Delaware limited liability company.

GIVEN under my hand and notarial seal this 3rd day of June, 2021.


Notary Public

My commission expires: _____

JODIEANN NELSON
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01NE6266888
Qualified in Kings County
Commission Expires August 6, 2024

Exhibit A

(Legal Description the Property)

PARCEL 1 - Antelope Square K-Mart Parcel:

Beginning at a point North 0°03'10" East 50.00 feet and South 89°47' West 502.16 feet from the South Quarter Corner of Section 7, Township 4 North, Range 1 West, Salt Lake Base and Meridian, and running thence North 0°03'10" East 451.83 feet; thence North 89°56'50" West 676.71 feet; thence South 53°13' West 33.42 feet; thence South 36°47' East 65.00 feet; thence South 53°13' West 98.00 feet; thence South 36°47' East 404.04 feet; thence North 89°47' East 500.69 feet to the point of beginning.

Less and Excepting therefrom Parcel 1, the following:

A parcel of land in fee for widening of highway State Route 108 known as Project No. 2008 being part of an entire tract of property, situated in the Southeast Quarter of the Southwest Quarter of Section 7, Township 4 North, Range 1 West, Salt Lake Base and Meridian. The boundaries of said parcel of land are described as follows:

Beginning in the Northerly right of way line of the existing highway at a point 50.00 feet North 0°03'10" East and 502.16 feet South 89°47' West from the South Quarter Corner of said Section 7, and running thence South 89°47' West 500.69 feet along said Northerly right of way line to the Northeasterly right of way line of the existing U.S. Highway 91; thence North 36°47' West 9.96 feet along said Northeasterly right of way line to a point 57.00 feet perpendicularly distant Northerly from the control line of said project; thence North 89°47' East 506.66 feet along a line parallel to said control line; thence South 0°03'10" West 8.00 feet along the Easterly boundary line of said entire tract to the point of beginning as shown on the Official Map of said project on file in the Office of the Utah Department of Transportation.

As granted to the Utah Department of Transportation by Warranty Deed recorded November 5, 1990 as Entry No. 907194 in Book 1379 at Page 635 of Official Records.

Also, Less and Excepting therefrom Parcel 1, the following:

A parcel of land in fee for the construction of a traffic signal known as Project No. S-0126(30)0, being part of an entire tract of property, situate in the SE1/4SW1/4 of Section 07, T. 4N., R. 1W., S.L.B.&M. The boundaries of said parcel of land are described as follows:

Beginning at the intersection of the North Right of Way line of SR-108 and the East Right of Way line of SR-126, which point is 58.00 feet North 0°03'10" East and 1008.88 feet South 89°47'00" West from the South Quarter Corner of Section 7, which point is also 4515.87 feet North 53°29'42" West from the West Quarter Corner of Section 17 of said Township, which point is also 49.54 feet perpendicularly distant easterly from centerline of SR-108 at Engineer Station 606+43.47 and running thence North 36°47'00" West 10.13 feet along said East Right of Way line of SR-126; thence South 89°58'57" East 19.11 feet; thence South 35°21'39" East 9.85 feet; thence South 89°47'00" West 18.75 feet to the point of beginning (Basis of Bearing for Section 17 being North 89°56'24" East between said West Quarter Corner and the Center of Said Section 17).

(Note: Rotate all bearings in the above description 00°01'03" counter-clockwise to match highway bearings.)

As granted to the Utah Department of Transportation by Warranty Deed recorded February 27, 2015 as Entry No. 2850935 in Book 6213 at Page 992 of Official Records.

Exhibit B

(Legal Description the Adjacent Property)

PARCEL 2 – Antelope Square Shopping Center Parcel:

Beginning at a point which is North 827.55 feet and West 1586.97 feet from the South Quarter Corner of Section 7, Township 4 North, Range 1 West, Salt Lake Base and Meridian and running thence North 89°43'40" East 1085.59 feet; thence South 0°03'10" West 332.75 feet; thence North 89°56'50" West 676.71 feet; thence South 53°13' West 33.42 feet; thence South 36°47' East 65.00 feet; thence South 53°13' West 98.00 feet to a point on the East line of U.S. Highway 91; thence North 36°47' West 160 feet along said Highway; thence North 53°13' East 98.00 feet; thence North 36°47' West 101.00 feet; thence South 53°13' West 98.00 feet to a point on said East line of Highway; thence North 36°47' West 34.00 feet along said Highway; thence North 53°13' East 98.00 feet; thence North 36°47' West 157.30 feet; thence South 89°43'40" West 91.16 feet; thence South 53°13' West 24.73 feet to a point on said East line of Highway; thence North 36°47' West 65.00 feet along said Highway to point of beginning.

FOR INFORMATIONAL PURPOSES ONLY:

2010 North Main Street, Layton, Utah