



\*W3037098\*

E# 3037098 PG 1 OF 10  
Leann H. Kilts, WEBER COUNTY RECORDER  
25-Feb-20 0433 PM FEE \$40.00 DEP PC  
REC FOR: NORTH AMERICAN TITLE UT BOUNTIFUL  
ELECTRONICALLY RECORDED

Loan No. 117603949001

**WHEN RECORDED, RETURN TO:**

Zions Bancorporation, N.A.  
dba Zions First National Bank  
Enterprise Loan Operations-UT RDWG 1970  
PO Box 25007  
Salt Lake City, UT 84125-0007

01-021-0078, 01-021-0072

01-021-0070, 01-021-0067

**SECOND SUPPLEMENTAL TRUST DEED**

This Second Supplemental Trust Deed (the "Supplemental Trust Deed") is made and entered into this 18<sup>th</sup> day of February, 2020 (the "Effective Date"), by and between Ogden-Wasatch Holdings, LLC, a Utah limited liability company ("Borrower"), and Zions Bancorporation, N.A., dba Zions First National Bank ("Lender"), whose address is One South Main Street, Suite 470, Salt Lake City, Utah 84133.

RECITALS

A. Lender and Borrower entered into a Term Loan Agreement dated November 21, 2016 (the "Loan Agreement"), whereby Lender agreed to make a loan to Borrower in the original principal amount of Eight Million Three Hundred Thousand Dollars (\$8,300,000.00) (the "Loan"), which was increased to Eight Million Seven Hundred Thirty-Nine Thousand Three Hundred Eighty-Three and 71/100 Dollars (\$8,739,383.71) and is further evidenced by, among other things, a Renewal and Substitute Promissory Note dated August 30, 2017, executed by Borrower for the benefit of Lender, and which is in the original principal amount of Eight Million Seven Hundred Thirty-Nine Thousand Three Hundred Eighty-Three and 71/100 Dollars (\$8,739,383.71) (the "Original Note").

B. Borrower's obligations under the Original Note are secured by the collateral described in the Term Loan Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing dated November 21, 2016 executed by Borrower, as "Trustor," to Lender, as "Trustee", for the benefit of Lender, as "Beneficiary", and which was recorded in the office of the County Recorder of Weber County, State of Utah, on November 22, 2016, as Entry No. 2827915, as modified by a Supplemental Trust Deed dated August 30, 2017, recorded in the office of the County Recorder of Weber County, State of Utah, on September 21, 2017, as Entry No. 2879751 (the "Trust Deed"). The Trust Deed encumbers real property located in Weber County, State of Utah, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property").

C. In accordance with a Second Loan Modification Agreement dated the Effective Date, entered into between Borrower and Lender (the "Modification Agreement"), Borrower is

executing a Second Renewal and Substitute Promissory Note dated the Effective Date, in the principal amount of Nine Million Two Hundred Fifty Thousand Dollars (\$9,250,000.00) (the "Renewal Note"), which Renewal Note replaces the Original Note.

The Loan Agreement, Renewal Note, Trust Deed, First Modification Agreement (as hereinafter defined), and all other documents defined as Loan Documents in the Loan Agreement, are hereinafter collectively referred to as the "Loan Documents".

D. The Loan Documents were amended by a Loan Modification Agreement dated August 30, 2017 (the "First Modification Agreement"), entered into by and between Borrower and Lender.

E. Borrower and Lender now desire to amend and supplement the Trust Deed to modify the obligations secured thereby consistent with the Modification Agreement and the Renewal Note.

#### AGREEMENT

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Borrower and Lender agree as follows:

1. **Reaffirmation of the Trust Deed.** Borrower and Lender agree and acknowledge that it was their intention at the time of the execution of the Trust Deed, that the Trust Deed encumber the Property as a first lien, and it continues to be their intention that the Trust Deed, as amended and supplemented by this Supplemental Trust Deed, continues, without interruption, to encumber the Property as a first lien.

2. **Amendment and Supplementation of Trust Deed.** The Trust Deed is hereby amended as follows:

a. The Trust Deed is hereby amended to include in the indebtedness secured by the Trust Deed, the Renewal Note (which replaces the Original Note) and the Interest Rate Hedging Transaction. Specifically, the second paragraph on Page 1 of the Trust Deed is hereby deleted in its entirety and replaced with the following:

Beneficiary has made a loan to Trustor in the amount of Nine Million Two Hundred Fifty Thousand Dollars (\$9,250,000.00) (the "Loan"). The Loan is evidenced by a Second Renewal and Substitute Promissory Note dated February 18, 2020, in the original principal amount of the Loan, and all renewals, extensions, modifications, and replacements thereof (the "Note"). The Loan will be advanced from time to time under a Term Loan Agreement between Trustor and Beneficiary dated the Closing Date (the "Loan Agreement"), as amended from time to time.

This Trust Deed also secures all of Trustor's obligations and covenants set forth in any Interest Rate Hedging Transaction (as such term is defined in Section 2.1.6 of this Trust Deed).

b. The following section in Article 2, Obligation Secured, of the Trust Deed is hereby deleted in its entirety and replaced with the following:

2.1.2 Other Loan Documents. The payment and performance of each and every agreement and obligation of Trustor under this Trust Deed, the Note, the Loan Agreement, the Interest Rate Hedging Transaction, and any other Loan Document.

c. The following section is hereby added to Article 2, Obligation Secured, of the Trust Deed:

2.1.6 Interest Rate Hedging Transaction. This Trust Deed also secures any and all obligations of Trustor to Beneficiary arising now or in the future under or in connection with any interest rate derivative transactions, including without limitation, rate swaps, basis swaps, forward rate transactions, commodity swaps, commodity options, equity or equity index swaps, equity or equity index options, bond options, interest rate options, foreign exchange transactions, cap transactions, floor transactions, collar transactions, forward transactions, currency swap transactions, cross-currency rate swap transactions, currency options or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures, including without limitation, any interest rate hedging transactions under any ISDA Master Agreement and Schedule thereto to be entered into between Trustor and Beneficiary, and all Confirmations (as such term is defined in such ISDA Master Agreement) between Trustor and Beneficiary executed in connection therewith (collectively the "Interest Rate Hedging Transaction"), together with all renewals of, extensions of, modifications of, consolidations of and substitutions for any of the foregoing.

d. The following section in Article 11, Events of Default and Remedies, of the Trust Deed is hereby deleted in its entirety and replaced with the following:

11.1 Events of Default. Ten (10) days after written notice from Beneficiary to Trustor and Guarantor for monetary defaults and thirty (30) days after written notice from Beneficiary to Trustor and

Guarantor for non-monetary defaults, if such defaults are not cured within such ten (10) day or thirty (30) day periods, respectively, each of the following shall constitute an event of default under this Trust Deed (an "Event of Default"):

- 11.1.1 Failure to Make Payment. If Trustor shall fail to make any payment due and payable under the terms of the Note, this Trust Deed, or any other Loan Document.
- 11.1.2 Non-Monetary Default. Except as provided otherwise in Section 11.1.1 of this Trust Deed, Trustor's failure to observe and perform any of the terms, covenants, or conditions to be observed or performed by Trustor contained in the Note, this Trust Deed or any other Loan Document.
- 11.1.3 Loan Agreement. Any Event of Default occurs under the Loan Agreement.
- 11.1.4 False Warranty. Any material representation or warranty of Trustor contained in the Note, this Trust Deed or any other Loan Document was untrue when made.
- 11.1.5 Insolvency, Etc. If (a) Trustor commences any case, proceeding, or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution, or composition of Trustor or Trustor's debts under any law relating to bankruptcy, reorganization, or relief of debtors, or seeking appointment of a receiver, trustee, custodian, or other similar official for Trustor or for all or any substantial part of Trustor's property; (b) any guarantor of the Note commences any case, proceeding, or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution, or composition of such guarantor or such guarantor's debts under any law relating to bankruptcy, reorganization, or relief of debtors, or seeking appointment of a receiver, trustee, custodian, or other similar official for such guarantor or for any substantial part of such guarantor's property; or (c) any such case, proceeding, or other action is commenced against either Trustor or any guarantor of the Note.
- 11.1.6 Failure to Pay Debts. Trustor fails to pay Trustor's debts as they become due, admits in writing Trustor's inability to pay

Trustor's debts, or makes a general assignment for the benefit of creditors.

11.1.7 Failure to Perform Other Obligations. A default by Trustor under the terms of any other promissory note, deed of trust, security agreement, undertaking or arrangement between Trustor and Beneficiary now existing or entered into hereafter.

11.1.8 Cross Default. A default by Trustor under any other agreement or arrangement between the parties to the Note now existing or entered into hereafter.

11.1.9 Interest Rate Hedging Transaction. The occurrence of a default or an event of default under any Interest Rate Hedging Transaction.

3. **Security.** Borrower and Lender agree and acknowledge that the Original Note, as amended and restated by the Renewal Note, the Interest Rate Hedging Transaction, and all other indebtedness and obligations described in the Trust Deed, are secured by the Trust Deed, as amended and supplemented by this Supplemental Trust Deed.

4. **Survival of Obligations; Continuation of Terms of Loan Documents.** Lender and Borrower agree that the Trust Deed, together with all of Borrower's obligations thereunder, shall, except to the extent expressly modified by this Supplemental Trust Deed, remain in full force and effect and survive the execution of this Supplemental Trust Deed. Except as expressly modified by this Supplemental Trust Deed, all terms and conditions of the Loan Documents shall continue in full force and effect.

5. **Representations, Warranties, Covenants and Agreements.** Borrower represents, warrants, and agrees that the representations, warranties, covenants and agreements of Borrower contained in the Loan Documents (a) are true and accurate as of the date of this Supplemental Trust Deed, (b) are hereby remade and reaffirmed by Borrower, and (c) are in full force and effect as of the date of this Supplemental Trust Deed, enforceable in accordance with their terms. Borrower further represents and warrants that Borrower is not in default under any of the terms and conditions of the Loan Documents, and no conditions exist which, with the passage of time, the giving of notice, or both, would constitute a default under the Loan Documents.

6. **Counterparts.** This Supplemental Trust Deed may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, but all of which taken together shall constitute only one agreement. The production of any executed counterpart of this Supplemental Trust Deed shall be sufficient for all purposes without producing or accounting for any other counterpart. Copies of this Supplemental Trust Deed, and fax signatures thereon, shall have the same force, effect and legal status as an original.

7. **Defined Terms.** Unless otherwise defined in this Supplemental Trust Deed, capitalized terms used herein have the meanings given them in the Loan Agreement.

8. **Governing Law.** This Supplemental Trust Deed and all matters relating to this Supplemental Trust Deed shall be governed exclusively by and construed in accordance with the applicable laws of the State of Utah.

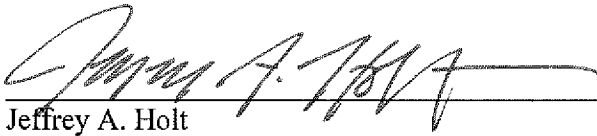
9. **Integrated Agreement and Subsequent Amendment.** This Supplemental Trust Deed, the Loan Documents, the Renewal Note, and the other agreements, documents, obligations, and transactions contemplated by the Loan Agreement and this Supplemental Trust Deed constitute the entire agreement between Lender and Borrower with respect to the subject matter of the agreements, and may not be altered or amended except by written agreement signed by Lender and Borrower. PURSUANT TO UTAH CODE SECTION 25-5-4, BORROWER IS NOTIFIED THAT THESE AGREEMENTS ARE A FINAL EXPRESSION OF THE AGREEMENTS BETWEEN LENDER AND BORROWER AND THESE AGREEMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED ORAL AGREEMENT.

*[SIGNATURE PAGE(S) AND EXHIBIT(S),  
IF ANY, FOLLOW THIS PAGE]*




LENDER

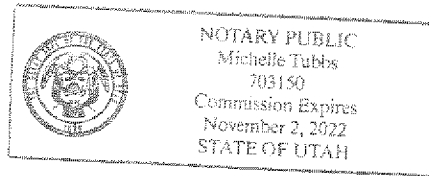
**ZIONS BANCORPORATION, N.A.,**  
dba Zions First National Bank

By:   
Jeffrey A. Holt  
Senior Vice President

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

The foregoing instrument was acknowledged before me this 21 day of February, 2020, by Jeffrey A. Holt, Senior Vice President of Zions Bancorporation, N.A., dba Zions First National Bank.

  
NOTARY PUBLIC  
Residing at: Salt Lake City





**EXHIBIT A****REAL PROPERTY DESCRIPTION**

The real property located in Weber County, State of Utah, and more particularly described as follows:

**PARCEL 1:**

PART OF LOTS 1 AND 10, BLOCK 25, PLAT "A", OGDEN CITY SURVEY: BEGINNING AT A POINT ON THE WEST LINE OF WASHINGTON BOULEVARD, SAID POINT BEING 66.06 FEET NORTH 0°58' EAST ALONG SAID WEST LINE FROM THE SOUTHEAST CORNER OF SAID LOT 1; RUNNING THENCE NORTH 89°06'42" WEST 84.86 FEET ALONG AN EXISTING BUILDING WALL TO A BUILDING CORNER; THENCE NORTH 1°56'53" EAST 14.75 FEET ALONG AN EXISTING BUILDING WALL TO A BUILDING CORNER; THENCE NORTH 88°54'59" WEST 81.21 FEET TO THE EAST LINE OF MERCHANTS ALLEY EXTENDED; THENCE NORTH 0°58' EAST 144.00 FEET ALONG SAID EAST LINE EXTENDED AND EAST LINE; THENCE SOUTH 89°04'23" EAST 165.82 FEET TO THE WEST LINE OF WASHINGTON BOULEVARD; THENCE SOUTH 0°58' WEST 158.92 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING.

**PARCEL 2:**

AN EASEMENT AND RIGHT-OF-WAY APPURTENANT TO SAID PROPERTY FOR INGRESS AND EGRESS FOR VEHICULAR AND PEDESTRIAN TRAFFIC OVER AND ACROSS THE FOLLOWING DESCRIBED REAL PROPERTY CONTIGUOUS THERETO: PART OF LOT 1, BLOCK 25, PLAT "A", OGDEN CITY SURVEY: BEGINNING AT A POINT ON THE EAST LINE OF KIESEL AVENUE; SAID POINT BEING 301.65 FEET NORTH 89°02' WEST AND 91.75 FEET NORTH 0°58' EAST FROM THE SOUTHEAST CORNER OF LOT 1, RUNNING THENCE NORTH 0°58' EAST 24.01 FEET ALONG SAID EAST LINE; THENCE SOUTH 87°49'04" EAST 135.86 FEET TO THE EAST LINE OF MERCHANTS ALLEY; THENCE SOUTH 0°58' WEST 24.01 FEET ALONG SAID EAST LINE; THENCE NORTH 87°49'04" WEST 135.86 FEET ALONG THE NORTH LINE OF EXISTING BUILDING AND BUILDING LINE EXTENDED TO THE POINT OF BEGINNING.

## PARCEL 3:

PART OF LOT 10, BLOCK 25, PLAT "A", OGDEN CITY SURVEY, WEBER COUNTY, UTAH: BEGINNING ON THE WEST LINE OF WASHINGTON BOULEVARD, SAID POINT BEING 224.98 FEET NORTH 0°58' EAST ALONG THE WEST LINE OF WASHINGTON BOULEVARD FROM THE SOUTHEAST CORNER OF LOT 1 OF SAID BLOCK 25, NORTH 89°04'22" WEST 165.82 FEET TO THE EAST LINE OF MERCHANTS ALLEY; THENCE NORTH 13.86 FEET; THENCE EAST 34 FEET; THENCE NORTH 10.64 FEET; THENCE SOUTH 89°04'22" EAST 99.86 FEET; THENCE SOUTH 6.58 FEET; THENCE EAST 31.25 FEET TO THE WEST LINE OF WASHINGTON BOULEVARD; THENCE SOUTH 0°58' WEST 17.92 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THAT PORTION OF VACATED MERCHANTS ALLEY ABUTTING SAID PROPERTY ON THE WEST.

## PARCEL 4:

PART OF LOTS 9 AND 10, BLOCK 25, PLAT "A", OGDEN CITY SURVEY, WEBER COUNTY, UTAH: BEGINNING AT A POINT 30 FEET EAST AND 85.5 FEET SOUTH FROM THE NORTHWEST CORNER OF SAID LOT 10, RUNNING THENCE EAST 128 FEET, MORE OR LESS, TO THE CENTER OF MERCHANTS ALLEY; THENCE NORTH 58 FEET, MORE OR LESS; THENCE NORTH 89°04'22" WEST 26 FEET, MORE OR LESS; THENCE NORTH 0°57'44" EAST 95 FEET, MORE OR LESS, TO THE WEST LINE OF VACATED MERCHANTS ALLEY; THENCE NORTHERLY ALONG SAID WEST SIDE TO THE NORTH LINE OF LOT 9; THENCE WEST TO THE EAST SIDE OF KIESEL AVENUE; THENCE SOUTH ALONG SAID EAST LINE 217.5 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

TOGETHER WITH THAT PORTION OF VACATED MERCHANTS ALLEY ABUTTING SAID PROPERTY ON THE EAST.

## PARCEL 5:

PART OF LOT 8, BLOCK 25, PLAT "A", OGDEN CITY SURVEY, WEBER COUNTY, UTAH: BEGINNING ON THE EAST LINE OF KIESEL AVENUE AND THE SOUTH LINE OF SAID LOT 8; RUNNING THENCE EAST 100 FEET, MORE OR LESS; THENCE NORTH 66 FEET; THENCE WEST 100 FEET, MORE OR LESS; THENCE SOUTH 66 FEET TO BEGINNING.