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Prepared By And When Recorded Return or Mail To: Nyemaster Goode, P.C., 700 Walnut St., Suite 1600, Des Moines, Iowa 50309, Attention: Bradford L. Austin

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GSC Provo, LLC (UT.1028)

**ASSIGNMENT OF LEASES, RENTS AND INCOME**

*p- 49616*

**THIS ASSIGNMENT OF LEASES, RENTS AND INCOME** (“Assignment”), made as of August 1, 2013, by GSC PROVO, LLC, a Utah limited liability company (“Assignor”), with the mailing address of 1188 Sportsplex Drive, Suite 203, Kaysville, Utah 84037, to AVIVA LIFE AND ANNUITY COMPANY, an Iowa corporation (“Assignee”), with an office located at c/o Aviva Investors North America, Inc., Attn: Commercial Mortgage, 215 10<sup>th</sup> Street, Suite 1000, Des Moines, Iowa 50309.

**WITNESSETH:**

**WHEREAS**, Assignor is the owner of certain real property with the buildings and improvements thereon situated in Davis County, Utah, particularly described in Exhibit “A” annexed hereto and made a part hereof (herein called the “Mortgaged Premises”);

**WHEREAS**, Assignor, concurrently herewith, is executing and delivering to Assignee: (i) a Promissory Note dated as of the date hereof (herein, together with all notes issued and accepted in substitution or exchange therefor, and as any of the foregoing may from time to time be modified, extended, renewed, consolidated, restated or replaced, called the “Note”) in the amount of FOUR MILLION, EIGHT HUNDRED THOUSAND AND NO/100 DOLLARS (\$4,800,000.00); and (ii) a First Deed of Trust, Security Agreement and Fixture Filing dated as

of the date hereof (herein called the "Deed of Trust") (capitalized terms not defined herein shall have the meanings ascribed to them in the Deed of Trust); and

**WHEREAS**, Assignee, as a condition of its Loan, has required the execution of this Assignment.

**NOW, THEREFORE**, in consideration of the above premises and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Assignor hereby grants, transfers, bargains, sells, assigns, conveys, and sets over unto Assignee, its successors and assigns, all right, title and interest of Assignor in and to all leases and subleases and other tenancy agreements now affecting or which may hereafter affect the Mortgaged Premises or any part or parts thereof and all guarantees, modifications, renewals and extensions thereof (herein collectively called the "Leases" and singularly a "Lease"), and all deposits made or hereafter made in respect of the Leases, together with all of the rents, income, revenues, issues and profits, including without limitation any Lease extension, renewal and termination fees (herein called the "Rents") due and to become due or to which Assignor may now or hereafter become entitled, arising out of the Leases, the Mortgaged Premises or any part thereof.

Upon satisfaction of the obligations secured by the Deed of Trust (the "Obligations"), this Assignment shall be and become null and void and the recording of a satisfaction of the Deed of Trust or other evidence of the release of the Deed of Trust shall evidence the release of this Assignment; otherwise, this Assignment shall remain in full force and effect.

**AND TO PROTECT THE SECURITY OF THIS ASSIGNMENT, ASSIGNOR AGREES:**

Section 1. Performance of Leases. To faithfully abide by, perform and discharge each and every obligation, covenant and agreement under any and all Leases to be performed by the landlord thereunder; to observe and comply with all provisions of law applicable to the operation and ownership of the Mortgaged Premises; not to amend or modify, or permit any assignment of, the Leases or permit a sublease of the Mortgaged Premises, without Assignee's prior consent; to enforce or secure the performance of each and every obligation, covenant, condition and agreement of said Leases by the tenants thereunder to be performed; not to borrow against, pledge or assign any Rents; not to anticipate the Rents or reduce the amount of the Rents or other payments under the Leases; and not to waive, excuse, condone or in any manner release or discharge the tenants thereunder of or from the obligations, covenants, conditions and agreements by said tenants to be performed, including the obligation to pay the rental called for thereunder in the manner at the place and time specified therein; and not to terminate the Leases or accept a surrender thereof except by reasons of expiration of the stated terms of the Leases.

Section 2. Protect Security. At Assignor's sole cost and expense, to appear in and defend any action or proceeding arising under, growing out of or in any manner connected with the Leases or the obligations, duties or liabilities of Assignor and tenants thereunder, and to pay all costs and expenses of Assignee, including attorneys' fees in a reasonable sum, in any such action or proceeding in which Assignee may appear. Assignor represents and warrants that it is now and will be the absolute owner of the Leases and the Rents with full right and title to assign

the same; that there is no outstanding assignment or pledge of the Leases or of the Rents; that no Rents have been waived, anticipated, discounted, compromised or released, except as may be permitted by the Leases; and that the tenants have no defenses, setoffs or counterclaims against Assignor. Assignor agrees to use commercially reasonable efforts to keep the Mortgaged Premises fully leased at rentals equivalent to or greater than rentals achieved from comparable properties.

Section 3. Present Assignment of Rents.

(a) This Assignment is intended to be and shall constitute a specific, choate and perfected assignment from Assignor to Assignee of all of Assignor's right, title and interest in and to the Leases and Rents, and not an assignment in the nature of a pledge of such Leases and Rents or the mere grant of a security interest therein.

(b) Notwithstanding that this Assignment is effective immediately, so long as no Event of Default has occurred, Assignor shall have the privilege under a revocable license granted hereby to collect as they become due, but not prior to accrual, all Rents from the Mortgaged Premises and to receive and hold the same. Assignor shall receive and hold such Rents, as well as the privilege and license to receive such Rents, in trust as a fund to be applied, and Assignor hereby covenants and agrees that such Rents shall be so applied, first to the payment of real estate taxes and other lienable assessments imposed upon the Mortgaged Premises, then to the cost of insurance, maintenance and repairs of or with respect to the Mortgaged Premises, then to the satisfaction of Assignor's obligations under the Leases, and then to the payment of interest and principal and other sums becoming due under the Obligations, before retaining and/or disbursing any part of the Rents for any other purpose. Should all or any portion of such Rents be utilized other than as herein provided, Assignor, and all those who participate in such action, shall, immediately from and after the occurrence of an Event of Default without further notice or demand or acceleration of the Obligations, be liable to Assignee for conversion.

Section 4. Remedies. Upon or at any time after the occurrence of an Event of Default, Assignee may, at its option, without notice:

(a) in the name, place and stead of Assignor: (i) enter upon, manage and operate the Mortgaged Premises or retain the services of an independent contractor to manage and operate the same; (ii) make, enforce, modify and accept surrender of the Leases; (iii) obtain or evict tenants, collect, sue for, fix or modify rentals and enforce all rights of Assignor under the Leases; and (iv) perform any and all other acts that may be necessary or proper to protect the security of this Assignment; or

(b) apply for, and Assignor hereby consents to, the appointment of a receiver of the Mortgaged Premises, whether or not proceedings for the foreclosure of the Deed of Trust have been commenced, and if such proceedings have been commenced, whether or not a foreclosure sale has occurred.

The exercise of any of the foregoing rights or remedies shall not cure or waive any default under the Deed of Trust or Note, or invalidate any act done by virtue of such default.

Section 5. Application of Rents. All Rents collected by Assignee, or by a receiver, shall be held and applied, in such order as Assignee may determine:

- (a) to payment of all reasonable fees of the receiver, if any, approved by the court;
- (b) to the repayment when due of all tenant security deposits, with interest thereon (if required by the applicable Leases);
- (c) to payment of all delinquent or current real estate taxes and special assessments payable with respect to the Mortgaged Premises, or if the Deed of Trust requires periodic escrow payments for such taxes and assessments, to the escrow payments then due;
- (d) to payment of all premiums then due for the insurance required by the provisions of the Deed of Trust, or if the Deed of Trust requires periodic escrow payments for such premiums to the escrow payments then due;
- (e) to payment of expenses incurred for normal maintenance of the Mortgaged Premises; and
- (f) to Assignee in payment of the Obligations in such order of application as Assignee may elect.

The rights and powers of Assignee under this Assignment, and the application of the Rents pursuant to this Section 5, shall continue and remain in full force and effect both before and after commencement of any action or proceeding to foreclose or exercise of powers of sale in connection with the Deed of Trust, after the foreclosure or Trustee's sale of the Mortgaged Premises in connection with the Deed of Trust, and until expiration of the period of redemption (if any) from any such foreclosure sale, whether or not any deficiency from the unpaid balance of the Obligations exists or is sought after such sale.

Section 6. No Liability for Assignee. Assignee shall not be obligated to perform or discharge nor does it hereby undertake to perform or discharge any obligation, duty or liability under the Leases; this Assignment shall not operate to place responsibility for the control, care, management or repair of the Mortgaged Premises upon Assignee nor for the carrying out of any of the terms and conditions of the Leases; and this Assignment shall not operate to make Assignee responsible or liable for any waste committed on the Mortgaged Premises by the tenants or any other party, or for any dangerous or defective condition of the Mortgaged Premises, or for any negligence in the management, upkeep, repair or control of the Mortgaged Premises resulting in loss or injury or death to any tenant, licensee, employee or stranger.

Section 7. Assignor To Hold Assignee Harmless. Assignor shall and does hereby agree to indemnify, defend and to hold Assignee harmless of and from any and all liability, loss or damage which it may or might incur under the Leases or under or by reason of this

Assignment, except Assignee's gross negligence or willful misconduct, and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases. Should Assignee incur any such liability, loss or damage under the Leases or under or by reason of this Assignment, or in the defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby and Assignor shall reimburse Assignee therefor immediately upon demand, and upon the failure of Assignor so to do, Assignee may declare all Obligations immediately due and payable.

Section 8. Remedies Not Exclusive. This Assignment shall in no way operate to prevent Assignee from pursuing any remedy which it now has or hereafter may have under the terms or conditions of the Deed of Trust or Note or any other instrument securing the same, or by law.

Section 9. Authorization to Tenants. The tenants under each of the Leases are hereby irrevocably authorized and directed to recognize the claims of Assignee, or its assigns, hereunder without investigating the reason for any action taken by Assignee, or the validity or the amount of indebtedness owing to Assignee, or the existence of any default in the Note, Deed of Trust or under or by reason of this Assignment, or the application of the Rents to be made by Assignee. Assignor hereby irrevocably directs and authorizes each tenant to pay to Assignee all sums due under its Lease and consents and directs that said sums shall be paid to Assignee without the necessity for a judicial determination that a default has occurred hereunder or under the Note or Deed of Trust or that Assignee is entitled to exercise its rights hereunder. To the extent such sums are paid to Assignee, Assignor agrees that the tenant shall have no further liability to Assignor for the same. The sole signature of Assignee shall be sufficient for the exercise of any rights under this Assignment, and the sole receipt of Assignee for any sums received shall be a full discharge and release therefor to any such tenant or occupant of the Mortgaged Premises.

Section 10. Existing Leases. Assignor hereby represents and warrants the following to Assignee:

(a) the Leases disclosed to Assignee that now affect the Mortgaged Premises constitute all of the leases, subleases and other tenancies in the Mortgaged Premises, have been duly executed and unconditionally delivered by the parties thereto and are valid, subsisting and in full force and effect;

(b) Assignor has not executed or granted any modifications or amendments of said Leases either orally or in writing;

(c) there are no defaults now existing under any of said Leases and no event has occurred which with the delivery of notice or the passage of time or both would constitute a default or which would entitle the landlord or the tenant under said Leases to cancel same or otherwise avoid their obligations thereunder;

(d) Assignor has not accepted advance rent under the said Leases except for security deposits not in excess of one (1) month's rent; and

(e) Assignor has not executed an assignment of any of said Leases or of its right, title and interest therein or the rentals to accrue thereunder, except as provided in the Deed of Trust.

Section 11. Assignee Attorney-in-Fact. Assignor hereby irrevocably appoints Assignee and its successors and assigns as its agent and attorney-in-fact to execute and deliver during the term of this Assignment such further instruments as Assignee may deem necessary to make this Assignment and any further assignment effective.

Section 12. Notices. All notices, demands, consents or requests which are either required or desired to be given or furnished hereunder (a "Notice") shall be in writing and shall be deemed to have been properly given if either delivered personally or by overnight commercial courier or sent by United States registered or certified mail, postage prepaid, return receipt requested, to the address of the parties hereinabove set out. Such Notice shall be effective upon receipt or refusal if by personal delivery, the first Business Day (a day other than a Saturday, Sunday or holiday on which national banks are authorized to be closed) after the deposit of such Notice with an overnight courier service by the time deadline for next Business Day delivery if by commercial courier, and upon the earliest of receipt or refusal (which shall include a failure to respond to notification of delivery by the U.S. Postal Service) or five (5) Business Days following mailing if sent by U.S. Postal Service mail. By Notice complying with the foregoing, each party may from time to time change the address to be subsequently applicable to it for the purpose of the foregoing.

Section 13. Amendments. This Assignment may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

Section 14. Successors and Assigns. This Assignment and each and every covenant, agreement and other provision hereof shall be binding upon Assignor and its successors and assigns, including without limitation each and every from time to time record owner of the Mortgaged Premises or any other person having an interest therein, and shall inure to the benefit of Assignee, its successors and assigns.

Section 15. Governing Law. This Assignment shall be construed and enforced according to and governed by the laws of Utah (excluding conflicts of laws rules) and applicable federal law.

Section 16. Severability. The unenforceability or invalidity of any provision hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

Section 17. No Mortgagee in Possession. Nothing herein contained, and no action taken pursuant to this Assignment, shall be construed as constituting Assignee as a "Mortgagee in Possession."

Section 18. Costs of Collection. Assignor shall pay on demand all costs and expenses incurred by Assignee in enforcing or protecting its rights and remedies hereunder, including, but not limited to, all costs of collection and litigation together with reasonable attorneys' fees (which term as used in this Assignment shall include any and all legal fees and expenses incurred in connection with litigation, mediation, arbitration and other alternative dispute processes) and legal expenses, including, without limitation, expert witness fees, any post-judgment fees, costs or expenses incurred on any appeal, in collection of any judgment, or in appearing and/or enforcing any claim in any bankruptcy proceeding. In the event of a judgment on the Note, Assignor agrees to pay to Assignee on demand all costs and expenses incurred by Assignee in satisfying such judgment, including without limitation, reasonable fees and expenses of Assignee's counsel, including taxes and post judgment insurance. It is expressly understood that such agreement by Assignor to pay the aforesaid post-judgment costs and expenses of Assignee is absolute and unconditional and (i) shall survive (and not merge into) the entry of a judgment for amounts owing hereunder and (ii) shall not be limited regardless of whether the Note or other obligation of Assignor or a guarantor, as applicable, is secured or unsecured, and regardless of whether Assignee exercises any available rights or remedies against any collateral pledged as security for the Note and shall not be limited or extinguished by merger of the Note, Deed of Trust or other Loan Documents into a judgment of foreclosure or other judgment of a court of competent jurisdiction, and shall remain in full force and effect post judgment and shall continue in full force and effect with regard to any subsequent proceedings in a court of competent jurisdiction including but not limited to bankruptcy court and shall remain in full force and effect after collection of such foreclosure or other judgment until such fees and costs are paid in full. Such fees or costs shall be added to Assignee's lien on the Mortgaged Premises that shall also survive foreclosure or other judgment and collection of said judgment.

Section 19. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute but one and the same instrument. Executed copies of the signature pages of this Assignment sent by facsimile or transmitted electronically in either Tagged Image Format ("TIFF") or Portable Document Format ("PDF") shall be treated as originals (provided that an original signature will be required for recording), fully binding and with full legal force and effect, and the parties waive any rights they may have to object to such treatment. Any party delivering an executed counterpart of this Assignment by facsimile, TIFF or PDF also shall deliver a manually executed counterpart of this Assignment, but the failure to deliver a manually executed counterpart shall not affect the validity, enforceability, and binding effect of this Assignment. The pages of any counterpart of this Assignment containing any party's signature or the acknowledgment of such party's signature hereto may be detached therefrom without impairing the effect of the signature or acknowledgment, provided such pages are attached to any other counterpart identical thereto except having additional pages containing the signatures or acknowledgments thereof of other parties.

Section 20. Integration. This Assignment is intended by the parties hereto to be the final, complete and exclusive expression of the agreement between them with respect to the matters set forth herein. This Assignment supersedes any and all prior oral or written agreements relating to the subject matter hereof and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no oral agreements between the parties.

Section 21. Construction. Each of the parties hereto has been represented by counsel and the terms of this Assignment have been fully negotiated. This Assignment shall not be construed more strongly against any party regardless of which party may be considered to have been more responsible for its preparation.

Section 22. No Waiver. Assignee shall not be deemed, by any act or omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by Assignee and then, only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event. Without limiting the generality of the foregoing, no waiver of, or election by Assignee not to pursue, enforcement of any provision hereof shall affect, waive or diminish in any manner Assignee's right to pursue the enforcement of any other provision.

Section 23. Jurisdiction. Assignor hereby irrevocably submits to the non-exclusive jurisdiction of any United States federal or state court for Davis County, Utah, in any action or proceeding arising out of or relating to this Assignment, and irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such United States federal or state court. Assignor irrevocably waives any objection, including without limitation, any objection to the laying of venue or based on the grounds of *forum non conveniens*, that it may now or hereafter have to the bringing of any such action or proceedings in such jurisdiction. Assignor irrevocably consents to the service of any and all process in any such action or proceeding brought in any such court by the delivery of copies of such process to each party at its address specified for notices to be given hereunder or by certified mail directed to such address. Assignor hereby irrevocably appoints

**THE PARTIES HERETO, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED ON OR ARISING OUT OF THIS ASSIGNMENT, OR ANY RELATED INSTRUMENT OR AGREEMENT, OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR ANY COURSE OF CONDUCT, DEALING, STATEMENTS, WHETHER ORAL OR WRITTEN, OR ACTION OF ANY PARTY HERETO. NO PARTY SHALL SEEK TO CONSOLIDATE BY COUNTERCLAIM OR OTHERWISE, ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THESE PROVISIONS SHALL NOT BE DEEMED TO HAVE BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY ANY PARTY HERETO EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY ALL PARTIES.**

Assignor acknowledges receipt of a copy of this Assignment at the time of execution thereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK, SIGNATURE PAGE FOLLOWS]





**Exhibit "A"****Legal Description**

Situated in the County of Utah, State of Utah:

THE PROPERTY REFERENCED IN THE FOREGOING INSTRUMENT IS LOCATED IN UTAH COUNTY, STATE OF UTAH, AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT LOCATED ON THE NORTHEASTERLY BOUNDARY OF U.S. HIGHWAY 89/91 AND SOUTHERLY BOUNDARY OF 1720 NORTH STREET, PROVO, UTAH, SAID POINT BEING LOCATED EAST ALONG THE SECTION LINE 980.45 FEET AND SOUTH 1454.12 FEET FROM THE NORTHWEST CORNER OF SECTION 36, TOWNSHIP 6 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID 1720 NORTH STREET AS FOLLOWS: NORTH 55°17'39" EAST 35.69 FEET; THENCE ALONG THE ARC OF A 176.06 FOOT RADIUS CURVE TO THE RIGHT 104.48 FEET (CHORD BEARS NORTH 72°17'39" EAST 102.95 FEET; THENCE NORTH 89°17'39" EAST 533.15 FEET; THENCE SOUTH 07°33'00" WEST 469.30 FEET TO AN IRON PIN IN A FENCE CORNER; THENCE NORTH 46°10'00" WEST 261.17 FEET ALONG THE NORTHEASTERLY LINE OF PHILLIPS PETROLEUM COMPANY PROPERTY TO AN IRON PIN; THENCE SOUTH 55°39'00" WEST 161.49 FEET ALONG THE NORTHWESTERLY LINE OF SAID PHILLIPS PETROLEUM PROPERTY; THENCE SOUTH 14°31'00" WEST 99.65 FEET ALONG THE WESTERLY LINE OF THE PHILLIPS PETROLEUM PROPERTY; THENCE NORTH 34°04'00" WEST ALONG THE NORTHEASTERLY BOUNDARY OF U.S. HIGHWAY 89/91, 366.34 FEET; THENCE NORTH 23°03'30" WEST ALONG THE NORTHEASTERLY BOUNDARY OF SAID U.S. HIGHWAY 89/91, 119.86 FEET TO THE POINT OF BEGINNING.

19-064-0027