

AFTER RECORDING MAIL TO:
The Boardwalk Company, LLC
1023 North 1490 East
Lehi UT 84043

ENT 127465 : 2022 PG 1 of 6
Andrea Allen
Utah County Recorder
2022 Dec 27 03:34 PM FEE 40.00 BY CS
RECORDED FOR Pinnacle Title
ELECTRONICALLY RECORDED

Parcel No.: Utah County 55-737-0002
Cache County 04-001-0003, 04-001-0010
File No.: 145839SL

DEED OF TRUST
Open Ended Line of Credit

THIS DEED OF TRUST, made this 23 day of December, 2022 between **Winterfox, L.L.C., a Utah limited liability company**, "TRUSTOR(S)", whose street address is 5513 West 1100 North Ste 305, Highland, UT 84003, **PINNACLE TITLE INSURANCE AGENCY CORP**, "TRUSTEE", whose street address is: 5292 South College Drive Suite 104, Salt Lake City UT 84123, and **THE BOARDWALK COMPANY, LLC**, "BENEFICIARY", whose street address is 1023 North 1490 East, Lehi UT 84043.

WITNESSETH: Trustor(s) hereby bargain(s), sell(s), and convey(s) to Trustee in trust, with power of sale, the following described real property in Utah and Cache County, Utah (the "Property"):

See **EXHIBIT "A"** attached hereto and incorporated herein by reference,

Commonly known as: 955 West 170 North, Payson, UT 84651 and vacant land in Cache County

together with all the tenements, hereditaments, and appurtenances now or hereafter belonging or in any way appertaining, and together with the following (all of which, collectively, shall be deemed included in the definition of, the "Property"):

(a) All land lying in streets and roads adjoining the Property, and all access rights, easements and rights of way pertaining to the Property.

(b) All the lands, tenements, privileges, reversions, remainders, irrigation and water rights and stock, oil and gas rights, royalties, minerals and mineral rights, hereditaments and appurtenances belonging or in any way pertaining to the Property.

(c) All buildings, structures, improvements, and any other fixtures now or hereafter attached to or placed on the Property.

(d) All rents, issues and profits of the Property, all existing and future leases of the Property (including extensions, renewals and subleases), all agreements for use and occupancy of the Property (all such leases and agreements whether written or oral, are hereafter referred to as the "Leases"), and all guaranties of lessees' performance under the Leases, together with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues, profits and other income of any nature now or hereafter due (including any income of any nature coming due during any redemption period) under the Leases or from or arising out of the Property including minimum rents, additional rents, percentage rents, parking or common area maintenance contributions, tax and insurance contributions, deficiency rents, liquidated damages following default in any Lease, all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Property, all proceeds payable as a result of a lessee's exercise of an option to purchase the Property, all proceeds derived from the termination or rejection of any Lease in a bankruptcy or other insolvency proceeding, and all proceeds from any right and claims of any kind which Trustor may have against any lessee under the Leases or any occupants of the Property (all of the above are hereafter collectively referred to as the "Rents"). This subsection is subject to the right, power and authority given to the Beneficiary in the Loan Documents (as defined herein) to collect and apply the Rents.

(e) All compensation, awards, damages, rights of action and proceeds (including insurance proceeds and any interest on any of the foregoing) arising out of or relating to a taking or damaging of the Property by reason of any public or private improvement, condemnation proceeding (including change of grade), fire, earthquake or other casualty, injury or decrease in the value of the Property; all returned premiums or other payments on any insurance policies pertaining to the Property and any refunds or rebates of taxes or assessments on the Property.

(f) All permits, permit applications, plans, specifications, contracts, agreements and purchase orders pertaining or incidental to the design, construction, maintenance or management of any improvements on the Property, Trustor's rights under any payment, performance, or other bond in connection with construction of improvements on the Property, and all construction materials, supplies, and equipment delivered to the Property or intended to be used in connection with the construction of improvements on the Property wherever actually located.

THIS DEED IS FOR THE PURPOSE OF SECURING the following:

(a) Full and punctual payment of the original principal sum of **\$150,000.00**, with interest thereon, according to the terms of a promissory note of even date herewith, payable to Beneficiary or to its order and made by Trustor (the "Note," which term shall include all renewals, modifications or extensions thereof evidencing the indebtedness secured by this Deed of Trust);

(b) Payment of any further sums advanced or loaned by Beneficiary to Trustor, or any of its successors or assigns, if (1) the Note or other writing evidencing the future advance or loan specifically states that it is secured by this Deed of Trust or (2) the advance, including costs and expenses incurred by Beneficiary, is made pursuant to this Deed of Trust or any other documents executed by Trustor evidencing, securing or relating to the Note and/or the Collateral, whether executed prior to, contemporaneously with or subsequent to this Deed of Trust (this Deed of Trust, the Note and such other documents, including any construction or other loan agreement, are hereafter collectively referred to as the "Loan Documents") together with interest thereon at the rate set forth in the Note unless otherwise specified in the Loan Documents or agreed to in writing; and

(c) Performance of each agreement, term and condition set forth or incorporated by reference in the Loan Documents unless performance of such agreement, term or condition is specifically provided to not be secured by this Deed of Trust.

Notwithstanding the foregoing and the covenants hereafter set forth, it is expressly agreed and acknowledged that none of the covenants, representations, or other obligations of Trustor set forth in this Deed of Trust are intended by Trustor and Beneficiary to secure or be the substantial equivalent of obligations of Trustor arising under (a) that certain Hazardous Substance Warranty and Indemnity Agreement, between Trustor and Beneficiary of even date herewith, or (b) any other environmental indemnity provisions, including without limitation provisions pertaining to hazardous or toxic wastes or substances, and any reference hereafter to the Loan Documents shall not include any such environmental indemnity provisions included therein.

COVENANTS: Trustor(s) covenant(s) and agree(s) as follows:

1. To keep the Property in good condition and repair; to permit no waste of the Property; to complete promptly and in a good and workmanlike manner any building, structure, or improvement being built or about to be built on the Property; to restore promptly and in a good and workmanlike manner any building, structure, or improvement on the Property which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the Property; not to commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general;

2. To pay before delinquent all lawful taxes and assessments upon the Property; to keep the Property free and clear of all other charges, liens, or encumbrances impairing the security of this Deed of Trust;

3. To keep all buildings now or hereafter erected on the Property continuously insured against loss by fire or other hazards in an amount not less than the total debt secured by this Deed of Trust. All policies shall be held by the Beneficiary, and be in such companies as the Beneficiary may approve and have loss payable first to the Beneficiary, as its interest may appear, and then to the Trustor(s). The amount collected under any insurance policy may be applied upon any indebtedness secured by this Deed of Trust in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Trustor(s) in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

4. To deliver to, pay for and maintain with Beneficiary until the indebtedness secured hereby is paid in full, such evidence of title as Beneficiary may require, including abstracts of title or policies of title insurance and any extensions or renewals thereof or supplements thereto.

5. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorneys' fees in a reasonable amount, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

6. To pay all costs, fees, and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligation secured by this Deed of Trust and Trustee's and attorneys' fees actually incurred, as provided by statute.

7. That, in the event Trustor(s) fails to pay when due any taxes, assessments, insurance premiums, liens, encumbrances, or other charges against the Property, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the Note secured by this Deed of Trust, shall be added to and become a part of the debt secured by this Deed of Trust.

8. The Property shall not be sold (by conveyance, contract to sell or otherwise), assigned, transferred or encumbered without the Beneficiary's consent; upon breach of this provision, in addition to any other remedies provided in the Note or Loan Documents, Beneficiary may accelerate the Note and declare all sums due under the Note and this Deed of Trust immediately due and payable, unless prohibited by applicable law.

9. In the event any portion of the Property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured by this Deed of Trust shall be paid to Beneficiary to be applied to said obligation.

10. By accepting payment of any sum secured by this Deed of Trust after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

11. The Trustee shall reconvey all or any part of the Property covered by this Deed of Trust to the person entitled thereto, on written request of the Trustor(s) and the Beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.

12. Time is of the essence hereof. Upon default by Trustor in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause the Property to be sold to satisfy the obligation hereof, and Trustee shall file such notice for record in each county wherein the Property or some part or parcel thereof is situated. Beneficiary also shall deposit with Trustee, the Note and all documents evidencing expenditures secured hereby. Trustee, upon presentation to it of an affidavit signed by Beneficiary, setting forth facts showing a default by Trustor under this Deed of Trust, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

13. After the lapse of such time as may then be required by the laws of the State of Utah following the recordation of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell the Property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which the Property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient, postpone the sale from time to time until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale; provided, if the sale is postponed for longer than one day beyond the day designated in the notice of sale, notice thereof shall be given in the same manner as the original notice of sale. Trustee shall execute and deliver to the purchaser its deed conveying the Property so sold, but without any covenant of warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of: (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorneys' fees; (2) the cost of any evidence of title procured in connection with such sale and revenue stamps on Trustee's deed; (3) all sums expended under the terms hereof; not then repaid, with accrued interest at the rate specified in the Note from date of expenditure; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place (or clerk of the applicable District Court with jurisdiction).

14. Trustor agrees to surrender possession of the hereinabove described Property to the purchaser at the aforesaid sale, immediately after such sale, in the event such possession has not previously been surrendered by Trustor

15. The power of sale conferred by this Deed of Trust is not an exclusive remedy.

16. In the event of the absence, death, incapacity, disability, or resignation of Trustee, or at the discretion of the Beneficiary, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the records of the County Recorder of the County in which the Property is located, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other deed of trust (excluding this Deed of Trust) or of an action or proceeding in which Trustor(s), Trustee, or Beneficiary shall be a party. Trustee accepts the trust described herein when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law

17. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on his/her/their heirs, devisees, legatees, administrators, executors, and assigns. All obligations of Trustor hereunder are joint and several. The term Beneficiary shall mean the holder and owner of the Note secured hereby, whether or not named as Beneficiary herein. The Beneficiary named herein shall have the right, without notice to Trustor, to assign its rights hereunder to any investor or participant in the Loan as security or otherwise.


18. This Deed of Trust shall be deemed a security agreement, as defined in the Uniform Commercial Code as adopted and amended by the State of Utah. The remedies for any violation of the covenants, terms and conditions of the agreements contained herein shall be as prescribed (i) herein, or (ii) by general law, or (iii) by the specific statutory consequences now or hereafter enacted, and specified in the Uniform Commercial Code as enacted by the State of Utah, all at Beneficiary's sole election. Trustor and Beneficiary agree that the filing of any financing statement in the records normally having to do with personal property shall not be construed as impairing the hereby stated intention of the parties that everything used in connection with the construction, management, maintenance and production of income from the Property together with all other rights and property described herein and comprising the secured property shall at all times and for all purposes in all proceedings, both legal and equitable, be regarded as part of the Property, whether physically attached or specifically identified or not.

19. As further security for the payment of all indebtedness and performance of all obligations secured hereby, Trustor irrevocably and absolutely assigns to Beneficiary, the rents, issues, profits and proceeds of contracts of the Property, together with all future Leases, profits and contracts, and any and all extensions, renewals and replacements hereof. However, as long as no default shall exist in any obligation secured hereby, Trustor may collect assigned rents and profits as the same shall fall due. All rents or profits receivable from or in respect to the Property which Trustor shall be permitted to collect hereunder shall be received by it in trust to pay the usual and reasonable operating expenses of, and the taxes upon, the Property and the payment of all sums secured hereby. Upon the occurrence of any default in payment of any indebtedness or performance of any obligation secured hereby, all rights of the Trustor to collect and receive rents and profits shall wholly and immediately terminate without notice, and Beneficiary shall thereafter have the absolute right to all such rents and profits. The entering upon and taking possession of the Property, the collection of any such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of the Property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. In addition to, and not in limitation of the foregoing, Beneficiary shall have the right to petition the Court of appropriate jurisdiction for the appointment of a Receiver of the rents, issues and profits of the Property and shall have in addition to the rights and powers customarily given to and exercised by such receiver, the right to enter upon and take possession of the Property and manage the same with all rights and options in regard thereto available to Trustor. Trustor expressly waives the posting of bond by such receiver, and waives any challenge to a proposed receiver based on affiliation with Beneficiary.

20. This Deed of Trust shall be construed according to the laws of the State of Utah.

21. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed via certified or registered mail (postage prepaid) to the address of Trustor hereinbefore set forth.

TRUSTOR:
Winterfox, L.L.C., a Utah limited liability company

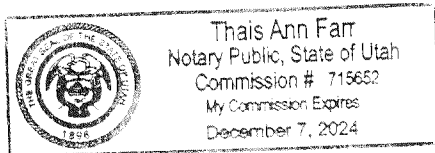


G. Evan Bybee
its managing member

STATE OF Utah)
)SS.
COUNTY OF Utah)

On 23 day of December, 2022, personally appeared G. Evan Bybee by me duly sworn did say that he is the said Member of Winterfox, L.L.C., a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said Limited Liability Company by authority of its Operating Agreement, and said Limited Liability Company executed the same.

Witness my hand and official seal





Signature of Notary

EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY/COLLATERAL

Parcel 1: (Utah County 55-737-0002)

Lot 2, Plat "A", WEST UTAH AVENUE SUBDIVISION, Payson, Utah, according to the official plat thereof on file in the office of the Utah County Recorder, Utah.

Less and Excepting therefrom any portion lying within the following described property: Commencing 13.94 chains North and 2.63 chains South $89^{\circ}15'$ East of the Southwest Corner of the Southwest Quarter of Section 8, Township 9 North, Range 2 East, Salt Lake Base and Meridian; thence South $89^{\circ}15'$ East 0.25 of a chain; thence North $0^{\circ}50'$ East 8.84 chains; thence North $89^{\circ}15'$ West 0.25 of a chain; thence South $0^{\circ}50'$ West 8.84 chains to beginning.

Parcel 2: (Cache County 04-001-0003)

Beginning North $1^{\circ}49'13''$ East 265.22 feet from the Northwest corner of Lot 1, Greystone Farms Unit 2, and running thence North 745 feet; thence East 1320 feet; thence South 920 feet; thence West 947.7 feet; thence North $7^{\circ}54'56''$ West 241.91 feet; thence South $78^{\circ}49'18''$ West 337.69 feet to beginning.

Less: Beginning 917.61 feet North and 687.53 feet East of the Southwest corner of the Northwest Quarter of said Section 1, and running thence North 100 feet; thence East 632.47 feet; thence South 221.3 feet; thence West 196.87 feet; thence North 121.3 feet; thence West 435.6 feet to beginning. Subject to a right-of-way described in Book 312 at Page 782 and Book 460 at Page 941.

Less the following: Beginning at the Northwest Corner of Lot 4, and running thence North $0^{\circ}17'05''$ East 368.29 feet; thence South $48^{\circ}44'06''$ East 383.75 feet to the Northeast corner of Lot 4; thence South $89^{\circ}44'41''$ West 35 feet; thence South $65^{\circ}44'41''$ West 280 feet to beginning.

Parcel 3: (Cache County 04-001-0010)

Beginning 1720 feet North and 372.3 feet East of the Northwest corner of the Southwest Quarter of the Southwest Quarter of Section 1, Township 12 North, Range 1 East of the Salt Lake Base and Meridian, and running thence East 947.7 feet; thence South 142 feet, more or less to the Northeast corner of Greystone Farms, Unit 2; thence South $89^{\circ}44'41''$ West 350 feet; thence South $65^{\circ}44'41''$ West 280 feet; thence North $71^{\circ}25'21''$ West 172.31 feet; thence North $49^{\circ}56'54''$ West 216.13 feet; thence North $7^{\circ}54'56''$ West 66.5 feet, more or less to beginning.

Less the following: Beginning at the Northwest corner of Lot 4, said subdivision, and running thence North $0^{\circ}17'05''$ East 368.29 feet; thence South $48^{\circ}44'06''$ East 383.75 feet to the Northeast corner of Lot 4; thence South $89^{\circ}44'41''$ West 35 feet; thence South $65^{\circ}44'41''$ West 280 feet to the beginning.

Parcel No.: 55-737-0002, 04-001-0003, 04-001-0010