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RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
INGEO SYSTEMS  
BY: eCASH, DEPUTY - EF 10 P.

WHEN RECORDED, MAIL TO:

Salt Lake City Corporation  
c/o Housing and Neighborhood Development  
451 South State Street, Room 445  
PO Box 145487  
Salt Lake City, Utah 84114-5487

**RECORDED**

**JUN 12 2019**

**OPTION TO REPURCHASE AGREEMENT**

**CITY RECORDER**

This Option to Repurchase Agreement ("Agreement") is made and entered into this June, 13, 2019, by and between the SALT LAKE CITY CORPORATION, a municipal corporation (the "City"), and Downtown SLC B LLC, a New York limited liability company (the "Owner"), both of whom are collectively referred to herein as the "Parties," and individually as a "Party."

**RECITALS:**

A. In accordance with the terms of that certain Purchase and Sale Agreement dated as of February 8, 2018, as amended (the "Purchase Agreement"), and pursuant to that Special Warranty Deed which was recorded on the date hereof (the "Deed"), the City sold and Owner purchased certain real property located at approximately 447 South Blair Street, Salt Lake City, Utah (as more particularly described in Exhibit "A" attached hereto, the "Property"), for the purchase price of \$644,528 (the "Purchase Price"), payable to the City at Closing, as defined in the Purchase Agreement.

B. Reserved.

C. Also pursuant to the Purchase Agreement, on the date hereof the City and the Owner entered into that certain Development Agreement, which was recorded immediately before this Agreement (the "Development Agreement"), in accordance with which the Owner agreed to construct the Developer Improvements (as defined therein) on the Parcel.

D. To provide assurances to the City that the Owner shall construct the Developer Improvements as provided in the Development Agreement, the City and the Owner have agreed to enter into this Agreement providing the City with an exclusive option to repurchase the Parcel from the Owner, subject to the terms, conditions and provisions set forth herein.

E. The Owner has executed this Agreement as a material inducement and condition precedent to the City to close on the sale of the Property in accordance with the terms, conditions and provisions of the Purchase Agreement and, but for the execution of this Agreement, the City would not have agreed to sell the Property to Buyer.

**AGREEMENT**

NOW, THEREFORE, the Parties agree as follows:

PROPERTY OF SALT LAKE  
CITY RECORDER'S OFFICE  
P.O. BOX 145515  
SALT LAKE CITY, UTAH 84114-5515

1. Incorporation of Recitals; Definition. The recitals set forth above are hereby incorporated into this Agreement and the matters therein are acknowledged by the Parties hereto to be true and correct in all material respects.

2. The following terms shall have the meanings set forth below:

- a. "Developer Improvements" shall have the meaning set forth in the Development Agreement.
- b. "Guaranty" shall have the meaning set forth in the Purchase Agreement.
- c. "Repurchase Price" for each Parcel shall mean the appraised value of the Parcel at the time of re-conveyance, less any financial encumbrance assumed by City, determined by either: (1) the appraisal by a mutually-agreed upon appraiser of the land and the Developer Improvements at the time of repurchase; or (2) the average of three appraisals by three appraisers; one selected by City, one selected by Owner, one mutually-selected appraiser. If the Repurchase Price as so calculated is a negative number, then the Repurchase Price shall be deemed to be \$0, and the amount of the negative number is the "Deficit Amount", which defined term is used in the Guaranty, which amount the Guarantor shall pay to City upon demand from City.

3. Purchase Option. Upon the occurrence of an Event of Default (as defined in the Development Agreement, which includes the expiration of all applicable cure periods available to Owner or its secured lenders under the terms and conditions of the Development Agreement) pursuant to Section 3.2(b) of the Development Agreement and after the expiration of six (6) months after written notice to the Owner of such Event of Default without cure, the City shall have an exclusive option to elect to repurchase the Parcel (the "Option") from the Owner on the terms and conditions specified herein.

4. Exercise of Option. The City may exercise the Option by giving written notice to the Owner ("City's Option Notice") at any time after the date which is thirty (30) days following the date on which City gives Owner written notice of the occurrence of an Event of Default, provided all opportunities for notice and cure by Owner and its secured lenders have then expired. The Parties agree that if the City pursues its remedies under the Guaranty, the City does not waive its rights hereunder, it being understood that the City may exercise the Option at any time following the date specified in the prior sentence.

5. Termination of Option. The Option shall terminate on the date that the City shall issue the Certificate of Completion for the applicable Parcel as provided in the Development Agreement or if City fails or refuses to issue a Certificate of Completion, the date that a Court of competent jurisdiction finds the City should have issued a Certificate of Completion.

6. Repurchase Price. In the event that the City shall exercise the Option, it shall be obligated to pay the Owner the Repurchase Price upon the conveyance of the applicable Parcel, if the Repurchase Price, as calculated above, is higher than \$0.00.

7. Closing Date. If the City elects to exercise the Option, the closing of the City's repurchase of the Parcel (the "Closing") shall occur on a date specified in writing by the City to the Owner, which date shall not be later than 30 days following the date of the City's delivery of the City's Option Notice (the "Closing Date").

8. Conveyance of the Demised Premises. The Owner shall convey the Parcel by means of a special warranty deed, subject to all matters of record except for liens and monetary encumbrances created by the Owner not assumed by City or those required by the City as a condition to acquisition of the Property, the intent of the Parties being that the City shall again hold fee title to the Parcel, subject only to such exceptions as existed immediately prior to the date on which the City and the Owner entered into the Option to Repurchase Agreement and any encumbrances created by or for the benefit of the City. If not assumed by the City, the Owner shall cause any financing against the Parcel to be released and satisfied. This Agreement shall not be subject to any deed of trust or other financial lien. To the extent permitted by the providers of construction financing in connection with the Development Improvements (unless such providers have been repaid in full), the Owner shall also deliver to the City at closing an assignment from Owner to City of the Architect Contract, the Construction Financing Documents, the Construction Contract (each as defined in the Purchase Agreement), and the subcontracts under the Construction Contract, such assignment to be effective only to the extent and in the event that the construction financing in connection with the applicable Developer Improvements has been repaid in full. Such assignment shall be approved by City in its discretion.

9. Title Insurance and Closing Costs. In the event the City shall exercise its Option, the City shall have the right to procure from a title company of its choice, an owner's policy of title insurance that insures marketable fee title to the Parcel, subject only to matters of record as of the date the Owner purchased the Property (and excluding all liens and monetary encumbrances created by the Owner, except those assumed by the City), together with such endorsements as the City may require. The Owner shall pay for the cost of the standard coverage owner's title insurance policy, and the City shall pay for the additional cost related to the issuance of an extended coverage owner's title insurance policy, as well as the cost of any endorsements thereto (except for endorsements related to mechanic's liens as set forth below). The Owner agrees to cooperate in causing the Owner's policy of title insurance to issue, and it shall remove or cause to be removed those mechanic's liens or monetary encumbrances that it has created or permitted, or, in the case of mechanic's liens, to cause (at the Owner's expense) an endorsement to be issued by the title company. The City and the Owner shall equally share escrow fees. All unpaid ad valorem taxes shall be prorated between the City and the Owner as of the date of Closing. No brokers or real estate agents shall be utilized in such transaction and no commissions will be due any broker or agent. Each party shall indemnify the other from any liability for any such fees or commissions incurred by it. At Closing, the Owner shall also execute and deliver any affidavit or lien waiver reasonably requested by the City's title insurer and a non-foreign affidavit.

10. Default. If the City exercises its Option, and the sale and purchase of the Parcel is not timely consummated on account of a default by the Owner under any of its obligations in

this Agreement, the City shall be entitled to pursue any and all available remedies at law or in equity, including the remedy of specific performance of the Owner's obligations hereunder. Additionally, the Owner shall reimburse the City for its expenses incurred in connection with the exercise of Option, or the enforcement of its rights under this Agreement.

11. General Provisions.

a. *Captions.* The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

b. *Number and Gender of Words.* Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other gender where appropriate.

c. *Attorney Fees.* In any legal or equitable proceeding for the enforcement of, or to restrain the violation of, or otherwise pertaining to a dispute concerning this Agreement or any provision hereof, by reference or otherwise, the prevailing Party shall be entitled to an award of reasonable attorney fees in such amount as may be fixed by the court in such proceedings, in addition to costs of suit. If counsel is otherwise employed to enforce this Agreement or any provision hereof, the Party forced to take action that does not involve litigation shall be entitled to its reasonable attorney fees.

d. *Notices.* All notices, demands, requests and other communications required or permitted hereunder shall be in writing, and shall be deemed to be delivered, whether actually received or not, three days after deposit in a regularly maintained receptacle for the United States mail, registered or certified, or another commercially acceptable means requiring a return receipt, postage prepaid, addressed as follows:

If to the Owner: Downtown SLC B LLC  
c/o The Domain Companies LLC  
11 Park Place, Suite 1705  
New York, New York 10007  
Attention: Matthew Schwartz

With a copy to: Cannon Heyman & Weiss, LLP  
54 State Street, 5<sup>th</sup> Floor  
Albany, New York 12207  
Attention: David Kuracina, Esq.

If to the City: Salt Lake City Corporation  
451 South State Street, Room 406  
Salt Lake City, UT 84114  
Attention: Director, Housing and Neighborhood  
Development

PROPERTY OF SALT LAKE  
CITY RECORDER'S OFFICE  
PO. BOX 145515  
SALT LAKE CITY, UTAH 84114-5515

With a copy to: Salt Lake City Attorney's Office  
451 South State Street, Room 505  
Salt Lake City, UT 84114  
Attention: Megan J. DePaulis

Upon at least ten (10) days prior written notice, each Party shall have the right to change its address to any other address within the United States of America.

e. *Governing Law.* This Agreement is intended to be performed in the State of Utah, and the laws of Utah shall govern the validity, construction, enforcement, and interpretation of this Agreement, unless otherwise specified herein.

f. *Entirety and Amendments.* This Agreement, together with the Purchase Agreement and Development Agreement, embodies the entire agreement between the Parties and supersedes any prior agreements and understandings, if any, relating to the Parcel, and may be amended or supplemented only by an instrument in writing executed by both the City and the Owner.

g. *Invalid Provisions.* If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement.

h. *Further Acts.* In addition to the acts and deeds recited herein and contemplated to be performed, executed and delivered by the City and the Owner, the City and the Owner agree to perform, execute and deliver or cause to be performed, executed, and delivered any and all such further acts, deeds and assurances as may be necessary to consummate the transactions contemplated hereby.

i. *Survival.* Except as otherwise provided for herein, all agreements, covenants, representations and warranties contained herein shall survive the expiration or termination of this Agreement and the performance by the Owner of its obligations hereunder.

j. *Warranty against Payment of Consideration for Agreement.* The Owner represents and warrants that neither it nor any of its members, managers, employees, or officers has: (i) provided an illegal gift or payoff to a City or an City officer or employee, or former City or City officer or employee, or his or her relative or business entity; (ii) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (iii) knowingly breached any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (iv) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee, or

former City officer or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

k. *Nonliability of City Officials and Employees.* No member, official or employee of the City shall be personally liable to the Owner, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Owner or its successor or on any obligation under the terms of this Agreement.

l. *Recordation.* This Agreement or a memorandum of this Agreement shall be recorded in the office of the Salt Lake County Recorder.

m. *No Relationship of Principal and Agent.* Nothing contained in this Agreement, nor any acts of the Parties shall be deemed or construed to create the relationship of principal and agent or of limited or general partnership or of joint venture or of any other similar association between the City, its successors or assigns, or the Owner, its successors or assigns.

n. *No Presumption.* This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either Party.

o. *Exhibits.* All references to Exhibits contained herein are references to exhibits attached hereto, all of which are made a part hereof for all purposes.

p. *Days.* Unless otherwise specified in this Agreement, a reference to the word "days" shall mean calendar days. The term "business days" shall mean each day of the week except weekends and federal holidays during which the United States mail is not delivered.

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

[Signatures on following page.]

PROPERTY OF SALT LAKE  
CITY RECORDER'S OFFICE  
P.O. BOX 145515  
SALT LAKE CITY, UTAH 84114-5515

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.



CITY:

SALT LAKE CITY CORPORATION, a Utah municipal corporation

**RECORDED**  
**JUN 12 2019**  
**CITY RECORDER**

By: Jacqueline M. Biskupski  
Jacqueline M. Biskupski, Mayor

ATTEST:  
Salt Lake City Recorder's Office  
[Signature]  
City Recorder

APPROVED AS TO FORM:  
Salt Lake City Attorney's Office  
[Signature]  
Kimberly K. Chytraus, Senior City Attorney

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

On the 11 day of June, 2019 personally appeared before me Jacqueline M. Biskupski, who being by me duly sworn did say she is the Mayor Salt Lake City Corporation, and that the within and foregoing instrument was signed on behalf of the City.

My Commission Expires:  
May 3, 2022

NOTARY PUBLIC  
Residing at: SLC, UT

[Signature]  
  
BAYLEE WHITE  
Notary Public  
State Of Utah  
My Commission Expires May 3, 2022  
COMMISSION NUMBER 700275

PROPERTY OF SALT LAKE  
CITY RECORDER'S OFFICE  
P.O. BOX 145515  
SALT LAKE CITY, UTAH 84114-5515

**OWNER:**

DOWNTOWN SLC B RETAIL CONDO LLC,  
a New York limited liability company

By: Downtown SLC HoldCo LLC, its manager

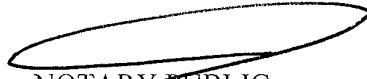
By: Downtown SLC Partners LLC, its managing  
member

By:   
Name: Matthew Schwartz  
Title: Authorized Signatory

STATE OF LOUISIANA )  
: ss. )  
PARISH OF ORLEANS )

On the 17<sup>th</sup> day of June, 2019, before me, the undersigned Notary Public, personally appeared Matthew Schwartz as Authorized Signatory of Downtown SLC Partners LLC, the managing member of Downtown SLC HoldCo LLC, the sole member of Downtown SLC B Retail Condo LLC, and that he executed the foregoing instrument for the purposes therein contained by signing the name of the limited liability company by himself as such officer.

Residing at: *New Orleans, Louisiana*

  
NOTARY PUBLIC

Jeffery Phillips Good  
Notary Public  
LA Bar Number 33155  
My Commission is for Life

Jeffery Phillip Good  
Notary Public  
LA Bar Number 33155  
My Commission is for Life



**EXHIBIT A  
(To Option to Repurchase Agreement)**

**Legal Description**

**[See attached legal for residential condominium]**

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Residential

Real property in the City of Salt Lake City, County of Salt Lake, State of Utah, described as follows:

PARCEL 1:

UNITS 100, 201, 301, AND 401, THE EXCHANGE B CONDOMINIUMS, AS THE SAME IS IDENTIFIED IN THE EXCHANGE B CONDOMINIUMS PLAT RECORDED IN SALT LAKE COUNTY, UTAH, ON June 13, 2019 AS ENTRY NO. 13008781 IN BOOK 2019P, PAGE 186 OF OFFICIAL RECORDS, AND IN THE DECLARATION OF CONDOMINIUM OF THE EXCHANGE B CONDOMINIUMS RECORDED IN SALT LAKE COUNTY, UTAH ON June 13, 2019 AS ENTRY NO. 13008782 IN BOOK 10791 AT PAGE 6126-6186 OF OFFICIAL RECORDS.

PARCEL 5:

LOT 3B, SALT LAKE CITY PUBLIC SAFETY BUILDING SUBDIVISION AMENDED & EXTENDED, ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER.

ALSO:

A PORTION OF LOT 7 OF BLOCK 35, OF THE OFFICIAL SALT LAKE CITY SURVEY "PLAT B", AND ALSO SITUATE IN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, SALT LAKE COUNTY, UTAH. THE BOUNDARIES OF WHICH ARE DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTHERLY RIGHT OF WAY LINE OF 400 SOUTH STREET, SAID POINT BEING NORTH 89°46'06" EAST 376.00 FEET FROM THE NORTHWEST CORNER OF LOT 5, BLOCK 35, PLAT "B", SALT LAKE CITY SURVEY, SAID POINT ALSO BEING SOUTH 89°46'06" WEST 284.44 FEET FROM THE NORTHEAST CORNER OF LOT 8 OF SAID BLOCK 35, SAID POINT ALSO BEING 724.00 FEET NORTH 00°02'38" WEST ALONG THE MONUMENT LINE AND 443.49 FEET NORTH 89°46'06" EAST FROM THE MONUMENT IN THE INTERSECTION OF 300 EAST STREET AND 500 SOUTH STREET, AND RUNNING THENCE NORTH 89°46'06" EAST 8.49 FEET ALONG SAID SOUTHERLY RIGHT OF WAY LINE TO THE WEST FACE OF A BACK OF EXISTING CURB AND CURB LINE; THENCE SOUTH 00°01'59" WEST 165.06 FEET ALONG SAID WEST FACE OF A BACK OF EXISTING CURB AND WEST FACE CURB LINE EXTENDED SOUTHERLY; THENCE SOUTH 89°45'54" WEST 7.72 FEET TO A POINT ON THE WESTERLY LINE OF THAT CERTAIN SPECIAL WARRANTY DEED RECORDED APRIL 25, 2012 AS ENTRY NO. 11377798 IN BOOK 10011 AT PAGE 6179, AT THE OFFICE OF THE SALT LAKE COUNTY RECORDER; THENCE NORTH 00°14'07" WEST 165.06 FEET (DEED = NORTH 00°14'24" WEST 165.00 FEET) ALONG SAID WESTERLY LINE TO THE POINT OF BEGINNING.

TAX PARCEL NUMBERS: (16-06-405-021-0000 & 16-06-405-022-0000)