

WHEN RECORDED, RETURN TO:

DAC-SWENSON, LC
c/o David A. Cloward
7045 South 2400 West
Spanish Fork, Utah 84660

PAYMENT AND PERFORMANCE DEED OF TRUST
WITH ASSIGNMENT OF LEASES AND RENTS

FIG PROJECT DD, LLC,
a Utah limited liability company, **TRUSTOR,**

PROVO ABSTRACT COMPANY, INC.,
a Utah Corporation, **TRUSTEE,**

AND

DAC-SWENSON, LC,
a Utah limited liability company, **BENEFICIARY**

9/30/2021 2021

PAYMENT AND PERFORMANCE DEED OF TRUST
WITH ASSIGNMENT OF LEASES AND RENTS

THIS PAYMENT AND PERFORMANCE DEED OF TRUST WITH ASSIGNMENT OF LEASES AND RENTS (“**Deed of Trust**”) is made and delivered as of 9/30/2021, 2021, by FIG PROJECT DD, LLC, a Utah limited liability company (“**Trustor**”), to PROVO ABSTRACT COMPANY, INC., a Utah corporation (“**Trustee**”), for the use and benefit of DAC-SWENSON, LC, a Utah limited liability company, its successors and assigns, (the “**Beneficiary**”). Reference is hereby made to that certain Purchase and Sale Agreement dated April 1, 2021, as amended, between Trustor, Beneficiary, and Trustee (the “**Purchase Agreement**”) with reference to the real property in Utah County, Utah, described (the “**Real Property**”):

See Exhibit "A" attached hereto.

This Deed of Trust is made among Trustor, Beneficiary and Trustee who agree as follows:

1. Grant and Conveyance. For value received, Trustor irrevocably grants, conveys and assigns to Trustee in trust, with power of sale, the Real Property, together with the following (hereinafter together with the Real Property collectively called the “**Property**”): (a) all buildings, structures and improvements located thereon; (b) all appurtenances, access rights, tenements, privileges, hereditaments, easements, rights-of-way, reversions, remainders, development rights, well rights, water rights, and air rights; (c) all oil, gas, and mineral rights not previously reserved; (d) any rights of Trustor to any adjoining strips or gores of property and any land lying within the bed of any adjoining street, highway, or waterway; (e) any other rights or privileges appurtenant to such Real Property or used in connection therewith; and (f) the leases, rents, issues, profits or income relating to the Real Property and improvements located thereon, if any (collectively, the “**Property Income**”). All components of the Property are deemed encumbered hereby as an entity and are declared to be a part of the real estate whether or not physically attached to the Real Property.

2. Secured Obligations. This Deed of Trust secures [(a) payment of the indebtedness evidenced by a promissory note of even date herewith (the “**Note**”), in the principal sum of \$ 10 made by Trustor, payable to the order of Beneficiary at the times, in the manner and with interest as therein set forth, and any extensions and/or renewals or modifications thereof,] (b) Trustor’s obligation to perform and complete the Performance Obligations (as such term is defined in the Purchase Agreement), which Performance Obligations are incorporated herein by this reference, and (c) the payment and performance of each covenant and agreement of Trustor contained herein (collectively, the “**Secured Obligations**”). All capitalized terms used herein without definition shall have the meanings attributed to such terms in the Purchase Agreement. In the event of a conflict between the terms of this Deed of Trust and the Purchase Agreement, the terms of the Purchase Agreement shall prevail.

3. Payment of Secured Obligations. Trustor shall perform and pay when due and before delinquency; (a) all Secured Obligations hereby; and (b) all costs, fees and expenses of this Trust including, without limitation, all fees of Trustee.
4. Protection by Trustor. Except for any liens created, suffered or assumed by Beneficiary as the owner of the Property prior to the recordation of this Deed of Trust, Trustor shall defend, at Trustor's expense, any action or proceeding purporting to affect Trustor's interest in the Property or the liens, rights or powers of Beneficiary or Trustee, or seeking to impose any liability on Beneficiary or Trustee because of any act or omission or Trustor. Trustor shall pay or cause to be paid before delinquent all taxes and assessments of every kind, nature and description levied or assessed on or against the Property. Trustor shall and does hereby agree to indemnify and hold Beneficiary and Trustee harmless from any such action or proceeding.
5. Protection by Beneficiary or Trustee; Reimbursement. Except for any liens created, suffered or assumed by Beneficiary as the owner of the Property prior to the recordation of this Deed of Trust, Beneficiary or Trustee or both of them are authorized at their election to appear in and defend any action or proceeding purporting to affect the Property or the liens, rights or powers of Beneficiary or Trustee; to pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior hereto; and, in exercising any such powers, to pay reasonable expenses, employ counsel, and to pay counsel's reasonable fees and costs. Without obligation to do so, Beneficiary or Trustee may pay any amount or perform any obligation which is required of Trustor hereunder and which is not paid by Trustor within 10 days after receipt of written notice by Trustor with respect to any payment obligation or within 30 days after receipt of written notice by Trustor with respect to any performance obligation (except in either case, in the event of an emergency Beneficiary shall not be required to provide any prior notice), or take any other action or incur any other expense to protect the Property and the security hereof. All amounts so paid or expenses so incurred by Trustee or Beneficiary shall bear interest at the rate of 18% per annum from the date incurred until repaid in full, and shall be secured by this Deed of Trust as a lien on the Property. Unless otherwise agreed, such amounts or expenses with interest shall be payable within 10 days after written notice to Trustor requesting such payment. Neither Beneficiary nor Trustee shall be obligated to perform or discharge any obligation or duty to be performed or discharged by Trustor under any lease, declaration or covenant.
6. Condemnation. Except as otherwise set forth in the Purchase Agreement, any award of damages in connection with any condemnation or taking of or for injury to any of the Property by reason of public use or for damages for private trespass or injury thereto shall be paid to Trustor unless Trustor is in default of payment of any of the Secured Obligations, in which case such award shall be paid to Beneficiary until all Secured Obligations have been fully satisfied.
7. Inspection. Without limiting Trustor's or Beneficiary's rights under the Purchase Agreement, Beneficiary may make or cause to be made reasonable entries upon inspections of the Property at any time so long as such entry does not interfere with Trustor's operations on the Property.

8. Default. Trustor shall be in default hereunder to the extent permitted by law, if: (a) Trustor fails to pay or perform on time any of the Secured Obligations and such failure continues for 10 days after Trustor's receipt of written notice from Beneficiary (without duplicating any cure period provided in the Purchase Agreement); (b) Trustor breaches any covenant or provision of this Deed of Trust requiring the payment of money (other than payment of the Secured Obligations) and such failure continues for 10 days after Trustor's receipt of written notice from Beneficiary; (c) Trustor breaches any other covenant or provision hereof (other than as provided in (a) or (b) above) and such failure continues for 30 days after Trustor's receipt of written notice from Beneficiary; (d) Trustor voluntarily files any petition or case under any state insolvency law or any Federal Bankruptcy Code; (e) an involuntary petition or case is filed against Trustor under any state insolvency law or any Federal Bankruptcy Code and the petition remains pending for more than 60 days or the court in which such petition is pending approves it or Trustor is adjudicated a bankrupt or becomes a debtor or debtor in possession in any such proceeding; (f) the Property is attached or levied upon by any execution, attachment, tax levy or other writ which is not removed or bonded in a manner acceptable to Beneficiary within 30 days thereof; or (g) a receiver, trustee, assignee, conservator, fiscal agent or liquidator be appointed for Trustor or for all or any part of the Property.
9. Remedies. Upon any default by Trustor, Beneficiary may declare all sums secured hereby to be immediately due and payable in full, and may accelerate the Secured Obligations, and Beneficiary shall have the right to cause Trustee to sell the Property or any part thereof as set forth herein and as provided by applicable law. To invoke the power of sale hereunder, Beneficiary or its agent shall execute a Statement of Breach or Nonperformance and deliver the same to Trustee. Trustee shall thereafter record and give notice of Trustee's sale in the manner required by law and, after the lapse of such time as may then be required by law, Trustee shall sell the Property in the manner required by law at public auction at the time and place fixed by it in such notice to the highest bidder for cash in lawful money of the United States, payable at the time provided by applicable law or by a credit bid of Beneficiary. Trustee in its discretion may postpone or continue the sale from time to time and from place to place by giving notice of postponement or continuance by public declaration at the time and place last appointed for the sale. Trustee shall deliver to any purchaser its Deed conveying the Property so sold, but without any covenant or warranty, expressed or implied. Any person, including Trustor, Trustee or Beneficiary, may purchase the Property at such sale. The purchaser at the Trustee's sale shall be entitled to immediate possession of the Property as against Trustor, Trustee or other persons in possession and shall have a right to the summary proceedings to obtain possession provided under Utah law, or otherwise, together with costs and reasonable attorneys' fees. Each provision of law relating to deeds of trust is and shall remain applicable to the respective rights and obligations of Trustor, Beneficiary and Trustee, and no term or provision hereof shall limit or restrict such rights or obligations. The omission of any express provision restating the applicable law herein shall not constitute or render the same inapplicable or waive the same. All provisions of the law of the state where the Real Property is located relating to deeds of trust are incorporated by reference herein. After deducting all costs, fees and expenses of Trustee and of this trust and the cost of evidence of title in connection with any Trustee's sale and reasonable attorneys' fees of Beneficiary and Trustee, Trustee shall hold, apply and administer the

proceeds from such sale to payment of the sums then secured hereby and all other sums due under the terms hereof, with accrued interest; and the remainder, if any, to the person or persons legally entitled thereto, or as provided under Utah law or otherwise. In lieu of sale pursuant to the power of sale conferred hereby, this Deed of Trust may be foreclosed in the same manner provided by law for the foreclosure of mortgages on real property. In any such judicial foreclosure, Beneficiary shall recover its reasonable attorneys' fees together with all costs and expenses, including without limitation, all court costs, experts' fees and cost of evidence of title. Beneficiary shall have all rights and remedies available to it hereunder and at law or in equity, and all remedies shall be cumulative and may be pursued concurrently or consecutively to the extent permitted by law.

10. Reconveyance. At any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary, without affecting the personal liability of any person for payment of the Secured Obligations hereby, Trustee may reconvey without warranty any part of the Property, consent to the making of any map or plat thereof, join in granting any easement thereon or in any extension agreement or agreement subordinating the lien or charge hereof.
11. Waiver of Remedies. Time is of the essence hereof. Acceptance of payment of money after its due date shall not constitute any waiver under this Deed of Trust or Beneficiary's right to require prompt payment of all other sums when due. No extension of time for payment or renewal of the Secured Obligations or the release from any personal liability of any person directly or contingently liable for any indebtedness secured hereby shall affect the lien or priority of this Deed of Trust. The taking by Beneficiary of any other collateral for the Secured Obligations hereby shall in no way affect or impair the lien or priority of this Deed of Trust and Beneficiary may resort for the payment of the Secured Obligations to its several securities in such order and manner as Beneficiary may determine. Any forbearance by Beneficiary in exercising any remedy or right hereunder shall not be a waiver of or preclude the subsequent exercise of any such remedy or right. The Trustor shall pay all costs of recordation and the release fees of Trustee, if any.
12. Notice. Except for any notice required under applicable law to be given in another manner, any notice to Trustor or Beneficiary provided for in this Deed of Trust shall be given in the manner and shall be deemed received at the time, provided in the Purchase Agreement. Unless a Request for Notice is recorded as provided by law, notice of any Trustee's sale shall be sent solely to Trustor's address set forth therein.
13. Parties Bound. This Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, personal representatives, administrators, executors, successors and assigns. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and neuter and conversely and the singular number includes the plural and conversely. The term "Trustor" shall mean all persons named as Trustor herein, whether one or more, and Trustor's obligations shall be joint and several. "Trustee" shall include all successor trustees.
14. Trustee. Trustee accepts this Deed of Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee may, but is not

obligated to, notify any party hereto of any pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party, unless brought by Trustee. Beneficiary may appoint a successor Trustee in the manner prescribed by law. Trustor and Beneficiary authorize Trustee, in the event any demand or notice is made or tendered to it concerning this Deed of Trust or the Property, to hold any money and documents and to withhold action or performance until an action shall be brought in a court of competent jurisdiction to determine the rights asserted or the propriety of the demand, notice or action requested and Trustee shall be without liability or responsibility for awaiting such court action. A successor Trustee herein shall, without conveyance from the predecessor Trustee, succeed to all its predecessor's title, estate, rights, powers and duties. Trustee may resign at any time by mailing or delivering notice thereof to Beneficiary and Trustor and, having so resigned, shall be relieved of all further liability and responsibility to Trustor, Beneficiary or otherwise hereunder. Trustee shall not be liable for any action taken in its discretion and in good faith or upon advice of counsel or upon any information supplied or direction given by Beneficiary.

15. Governing Law; Severability. The state and local laws applicable to this Deed of Trust shall be the laws of the jurisdiction in which the Real Property is located. The foregoing sentence shall not limit the applicability of federal law to this Deed of Trust. If any provision or clause of this Deed of Trust conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust are declared to be severable.
16. Integration. This instrument, together with the Purchase Agreement, constitutes the entire understanding of the parties, each of whom has been, or has had the opportunity to be, represented by counsel of each party's choosing, and have been bargained for and are negotiated agreements that set forth the entire agreement with respect to the terms thereof, and there are no oral or written statements, representations, agreements or understandings which modify, amend or vary, or purport to modify, amend or vary any of the terms of such documents.
17. Security Intended. Notwithstanding any provision hereof to the contrary, the parties intend that this document constitute security for the payment and performance of the Secured Obligations as provided elsewhere herein, and shall be a "deed of trust." If despite that intention a court of competent jurisdiction shall determine that this document does not qualify as a "trust deed" or "deed of trust" within the meaning and purview of Utah law, then, ab initio, this instrument shall be deemed a realty mortgage under Utah law, and shall be enforceable as such, the Trustor shall be deemed a "mortgagor," the Beneficiary shall be deemed a "mortgagee," the Trustee shall have no capacity but shall be disregarded and all references to the "Trustee" herein shall be deemed to refer to the "mortgagee" to the extent not inconsistent with interpreting this instrument as though it were a realty mortgage. As a realty mortgage, Trustor as mortgagor shall be deemed to have conveyed the Property ab initio to the Beneficiary as mortgagee, such conveyance as a security to be void upon condition that Trustor pay and perform all its Secured Obligations hereby.

18. Release of Deed of Trust. At such time as all of the Secured Obligations have been paid or otherwise satisfied in accordance with this Deed of Trust and the Purchase Agreement, Beneficiary shall irrevocably and unconditionally release and reconvey the Property then held hereunder without any covenant or warranty, express or implied. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as “the person or persons legally entitled thereto.”

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IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the date first above written.

FIG PROJECT DD, LLC,
a Utah limited liability company

By: Michael Miller
Michael Miller, its Manager

STATE OF Utah)
County of Utah) ss.

The foregoing instrument was acknowledged before me this 30 day of September, 2021, by Michael Miller, in his capacity as Manager of FIG PROJECT DD, LLC, a Utah limited liability company.

WITNESS my hand and official seal.

Karen Weeks
Notary Public

My Commission Expires:
8.1.23

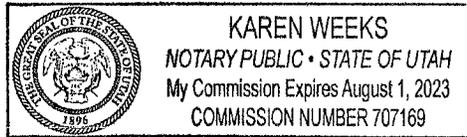


EXHIBIT "A"Legal Description

The following described property is located in Utah County, Utah:

BEGINNING AT A POINT WHICH LIES N01°38'09"W 392.89 FEET ALONG THE SECTION LINE AND EAST 1339.68 FEET FROM THE SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE N00°18'43"E 84.00 FEET; THENCE S89°41'17"E 0.96 FEET; THENCE SOUTHEASTERLY 18.89 FEET ALONG THE ARC OF A 12.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 90°12'44", THE CHORD S44°53'38"E 17.00 FEET; THENCE EAST 304.76 FEET; THENCE NORTHEASTERLY 18.85 FEET ALONG THE ARC OF A 12.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 90°00'00", THE CHORD BEARS N45°00'00"E 16.97 FEET; THENCE NORTH 117.26 FEET; THENCE EAST 386.46 FEET; THENCE SOUTHEASTERLY 100.27 FEET ALONG THE ARC OF A 75.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 76°35'57", THE CHORD BEARS S51°42'01"E 92.97 FEET; THENCE EAST 135.61 FEET; THENCE NORTH 166.63 FEET; THENCE N89°50'20"E 394.01 FEET; THENCE S00°14'39"E 681.89 FEET; THENCE S89°36'57"W 63.48 FEET; THENCE NORTHEASTERLY 62.62 FEET ALONG THE ARC OF A 40.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE 89°41'41", THE CHORD BEARS N44°33'21"E 56.42 FEET; THENCE N00°17'30"W 159.80 FEET; THENCE WEST 199.15 FEET; THENCE SOUTH 49.63 FEET; THENCE WEST 418.49 FEET; THENCE SOUTH 114.87 FEET; THENCE SOUTHEASTERLY 63.16 FEET ALONG THE ARC OF A 40.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 90°28'07", THE CHORD BEARS S45°14'03"E 56.80 FEET; THENCE S89°31'53"W 140.00 FEET; THENCE NORTHEASTERLY 62.50 FEET ALONG THE ARC OF A 40.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 89°31'53", THE CHORD BEARS N44°45'57"E 56.34 FEET, THENCE NORTH 169.91 FEET; THENCE NORTHWESTERLY 23.56 FEET ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 90°00'00", THE CHORD BEARS N45°00'00"W 21.21 FEET; THENCE WEST 199.59 FEET; THENCE NORTHWESTERLY 117.81 FEET ALONG THE ARC OF A 75.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90°00'00", THE CHORD BEARS N45°00'00"W 106.07 FEET; THENCE NORTH 76.66 FEET; THENCE NORTHWESTERLY 18.85 FEET ALONG THE ARC OF A 12.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 90°00'00", THE CHORD BEARS N45°00'00"W 16.97 FEET; THENCE WEST 305.08 FEET; THENCE SOUTHWESTERLY 18.81 FEET ALONG THE ARC OF A 12.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 89°47'16", THE CHORD BEARS S45°06'22"W 16.94 FEET; THENCE N89°41'17"W 1.11 FEET TO THE POINT OF BEGINNING.

LESS & EXCEPTING BEGINNING AT A POINT WHICH LIES N01°38'09"W 316.15 FEET ALONG THE SECTION LINE AND EAST 1714.70 FEET FROM THE SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 8 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE NORTH 205.92 FEET; THENCE NORTHEASTERLY 39.27 FEET ALONG THE ARC OF A 25.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90°00'00", THE CHORD BEARS N45°00'00"E 35.36 FEET; THENCE EAST 314.46 FEET; THENCE SOUTHEASTERLY 43.98 FEET

ALONG THE ARC OF A 28.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90°00'00", THE CHORD BEARS S45°00'00"E 39.60 FEET; THENCE SOUTH 202.92 FEET; THENCE SOUTHWESTERLY 43.98 FEET ALONG THE ARC OF A 28.00 FOOT RADIUS TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90°00'00", THE CHORD BEARS S45°00'00"W 39.60 FEET; THENCE WEST 311.46 FEET; THENCE NORTHWESTERLY 43.98 FEET ALONG THE ARC OF A 28.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90°00'00", THE CHORD BEARS N45°00'00"W 39.60 FEET TO THE POINT OF BEGINNING.
CONTAINING 8.27 ACRES.