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E# 3223752 PG 1 OF 5
Leann H. Kilts, WEBER COUNTY RECORDER
15-Mar-22 0948 AM FEE \$40.00 DEP SLV
REC FOR: CAPSTONE TITLE AND ESCROW, INC.
ELECTRONICALLY RECORDED

**SECOND AMENDMENT TO DEED OF TRUST,
TRUST DEED NOTE,
AND GUARANTY**

This Second Amendment to the Deed of Trust, Trust Deed Note and Guaranty (this "**Second Amendment**") is made and entered into this 11th day of March 2022, ("**Effective Date**"), by and between Bluemountain, Inc., a Utah corporation ("**Borrower**"), RB50, LLC, a Delaware limited liability company ("**Lender**"), and Kenneth Thomson, an individual ("**Guarantor**"). regarding the loan relating to the real property located approximately at 791 N 9350 W, Ogden, UT 84404 (or other new address assigned to the parcels). Lender, Borrower and Guarantor may be referred to individually as a "**Party**" or collectively as the "**Parties**," as necessary in this Second Amendment.

RECITALS

- A. WHEREAS, on or about November 18, 2021, Lender and Borrower entered into that certain secured Trust Deed Note (the "**Note**") pursuant to which Lender lent \$330,000.00 to Borrower (the "**Loan**").
- B. WHEREAS, Borrower promised to repay the monies advanced by Lender on the terms and conditions set forth in the Note;
- C. WHEREAS, the Note is secured in 1st lien position by a Deed of Trust encumbering real property ("**Trust Deed**");
- D. WHEREAS, obligations arising out of the Note, Trust Deed, and other documents related to the Loan are personally guaranteed pursuant to the terms of a Guaranty, dated as of November 18, 2021, by Guarantor and in favor of Lender (the "**Guaranty**").
- E. WHEREAS, on or about January 21, 2022, Lender and Borrower entered into that certain First Amendment to Deed of Trust, Trust Deed Note, and Guaranty (the "**First Amendment**") pursuant to which Lender increased the principal amount of the loan to \$635,000.00.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants, terms, conditions, and obligations herein set forth, the Parties agree as follows:

AGREEMENT

1. **Definition of Certain Terms.** The Note, Trust Deed, Guaranty, First Amendment, Second Amendment, and all other documents between Lender, Borrower and/or Guarantor related to the Loan and the funds advanced by Lender pursuant thereto are herein collectively referred to as the "**Loan Documents**".

2. **Amendments.** The Loan Documents are hereby amended to reflect an increase in the principal amount of the Loan to \$960,000.00 as of the Effective Date. One payment of \$320,746.67 is due March 18, 2022. If this amount is not paid on or before March 18, 2022, this Loan shall be in default and subject to the terms as outlined in the Loan Documents, including a 10% delinquency charge on the unpaid balance of the Note and 34% default interest rate. Once the \$320,746.67 is paid, if the remaining unpaid balance goes beyond March 18, 2022, Lender may, in

Lender's sole discretion and only after written request from the Borrower, opt to extend the Note for another 4 months upon payment in cash of \$12,700.00 ("Extension Fee") as well as monthly payments of \$6,350.00 paid out-of-pocket by the Borrower for the additional 4 months. If Lender chooses to not extend the Loan, the Borrower shall be responsible to pay the full amount owing under the Loan Documents or be in default.

3. Application and Reaffirmation of Note and Loan Documents. Except for the specific terms set forth herein, all terms, conditions, covenants and agreements set forth in the Loan Documents are hereby reaffirmed and shall remain in full force and effect. This Second Amendment is not intended to and shall not be construed to create or constitute a release or relinquishment of the Loan Documents, and shall not affect, the liens, security interests and rights thereunder, all of which are hereby ratified, confirmed, renewed and extended in all respects. As of the date first set forth above, Borrower and Guarantor hereby reaffirm to Lender each of the representations, warranties, covenants and agreements of Borrower set forth in the Loan Documents with the same force and effect as if each were separately stated herein and made as of the date hereof.

4. No Defenses or Claims. Borrower and Guarantor acknowledge and agree that neither Borrower nor Guarantor has any defenses, counterclaims, offsets, cross-complaints, causes of action, rights, claims or demands of any kind or nature whatsoever relating to any of the Loan Documents, directly or indirectly, including without limitation, any usury, unconscionability or lender liability claims or defenses arising out of any loan, any of the Loan Documents, or any past or present relationship between or among Borrower, Lender, Guarantor or any of their respective past, present and/or future parent, subsidiary and affiliated entities and, with respect to each of the foregoing, their respective past and present officers, directors, shareholders, partners, limited partners, members, managers, representatives, principals, owners, affiliates, attorneys, accountants, agents and employees, and their successors, heirs and assigns and each of them, that can be asserted either to reduce or eliminate all or any part of Borrower's and/or Guarantor's liability to repay the Loan, to repay the amounts owed pursuant to the Loan Documents and to perform the obligations arising out of such documents. Borrower and Guarantor further acknowledge that to the extent that any such claim should in fact exist, including without limitation, any usury, unconscionability or lender liability claim, such claim(s) is/are being and hereby is/are fully, finally and irrevocably released by Borrower and Guarantor. Borrower and Guarantor acknowledge that the release granted above was and is a material inducement to Lender to enter into this Second Amendment and to make the advances of principal that gave rise to this Second Amendment.

5. Representations and Warranties of Borrower and Guarantor. To induce Lender to enter into this Second Amendment, Borrower and Guarantor hereby make the following representations and warranties, each of which shall be deemed to be a continuous representation and warranty made as of the date first set forth above and so long as any of Borrower's or Guarantor's indebtedness under the Loan Documents remains outstanding:

a. No Consent. No consent of any person is required under any contract, license, permit, approval or law binding on any of the persons referred to herein as Borrower or Guarantor in connection with the execution, delivery or performance of this Second Amendment.

b. Power and Authority. The execution, delivery and performance hereof by Borrower and Guarantor is not in contravention of law, or any indenture, agreement or undertaking to which any of the persons referred to herein as Borrower or Guarantor is a party to or by which any of the persons referred to herein as Borrower or Guarantor is bound.

c. Valid and Binding Obligations. The execution and delivery by Borrower

and Guarantor of this Second Amendment and any other documents required hereunder have been duly and properly made and authorized, and when executed and delivered by Borrower and Guarantor will constitute the legal, valid, and binding obligations of Borrower and Guarantor enforceable in accordance with their respective terms.

d. No Defenses. Borrower's and Guarantor's obligations to Lender, as amended hereby, under the Loan Documents are valid and enforceable and neither Borrower nor Guarantor has any defenses, offsets, counterclaims or other adverse claims of any kind whatsoever against Lender with respect to the obligations represented by the Loan Documents, or any action or inaction of Lender with respect thereto.

e. No Default Caused by Entry into Agreement. The execution and delivery of this Second Amendment and the consummation of the transactions herein contemplated will not violate any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on any of the persons referred to herein as Borrower or Guarantor, or conflict with or constitute a default under or result in the creation or imposition of any lien pursuant to the terms of any indenture, instrument or agreement to which any of the persons referred to herein as Borrower or Guarantor is a signatory or otherwise bound.

f. No Litigation. There are no actions, suits or proceedings at law or in equity by or before any governmental authority or person now pending against or affecting the collateral described in the Trust Deed and Loan Documents or any of the persons referred to herein as Borrower or Guarantor.

g. No Bankruptcy Filing. None of the persons referred to herein as Borrower or Guarantor is a debtor in any outstanding action or proceeding pursuant to any bankruptcy law and none has, upon the effectiveness of this Second Amendment, any current intent either to file a petition by it under any bankruptcy law or the liquidation of all or any portion of its assets or property, and none of the persons referred to herein as Borrower or Guarantor is aware that any other person has any current intent to file against any such person a petition under any bankruptcy law.

6. Counterparts. This Second Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. Counterparts and signatures transmitted by facsimile or electronic mail shall be valid, effective and enforceable as originals.

7. Entire Agreement. As amended hereby, the Loan Documents and this Second Amendment, embody the entire agreement and understanding between Borrower and Lender and supersede all prior agreements and understandings between said parties relating to the subject matter thereof.

[Signatures to follow on next page.]

IN WITNESS WHEREOF, the Parties have caused this Second Amendment to be executed and delivered. as set forth below:

BORROWER:

Bluemountain, Inc.

Date: 3-11-22

By: [Signature]
Name: Kenneth Thomson
Title: President

GUARANTOR:

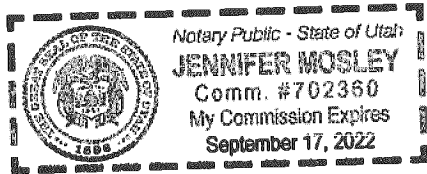
Date: 3-11-22

By: [Signature]
Name: Kenneth Thomson, Individually

STATE OF UTAH)
COUNTY OF Davis) : ss.

On the 11th day of March, 2022, personally appeared before me, Kenneth Thomson, the signer of the above instrument, who duly acknowledged to me that they executed the same.

[Signature]
NOTARY PUBLIC



PARCEL 1:

A part of the SE1/4 of Section 17, Township 6 North, Range 3 West, Salt Lake Base and Meridian; also being a part of Lot 2 as shown on that Record of Survey Numbered 004480 on file in the Office of the Weber County Surveyor; located in Ogden City, Utah; being more particularly described as follows:

Beginning at a Rebar and Cap on the West line of 9350 West Street, located along the Section line S89041'25"E 974.97 feet and NOO030'59"E 2,269.25 feet from the South 1/4 Corner of Section 17, T6N, R3W, SLB&M; thence SOO030'59"W along said street 458.44 feet; thence N89041'25"W 475.07 feet; thence NOO030'52"E 458.44 feet; thence S89041'25"W 475.08 feet to the point of beginning.

Tax Parcel No. 10-038-0015 (or other new parcel number assigned to the parcel)

Property Address: 791 N 9350 W, Ogden, UT 84404 (or other new address assigned to the parcel)

PARCEL 2:

A part of the SE1/4 of Section 17, Township 6 North, Range 3 West, Salt Lake Base and Meridian; also being a part of Lot 2 as shown on that Record of Survey Numbered 004480 on file in the Office of the Weber County Surveyor; located in Ogden City, Utah; being more particularly described as follows:

Beginning at a point on the westerly line of said Lot 2, located along the Section line S89041'25"E 31.36 feet and NOO018'35"E 1,810.80 feet from the South 1/4 Corner of Section 17, T6N, R3W, SLB&M; thence NOO030'45"E 458.44 feet; thence S89041'25"E 475.08 feet; thence SOO030'52"W 458.44 feet; thence N89041'25"W 475.07 feet to the point of beginning.

Tax Parcel No. ^{001b} 10-038-~~0017~~ (or other new parcel number assigned to the parcel)

Property Address: 791 N 9350 W, Ogden, UT 84404 (or other new address assigned to the parcel)