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*Proposed Attorneys for Michael F. Thomson, Chapter 11 Trustee*

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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH**

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In re:

THE FALLS EVENT CENTER LLC,  
  
Debtor.

Bankr. Case No. 18-25116

Chapter 11

The Honorable R. Kimball Mosier

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**APPLICATION OF MICHAEL F. THOMSON, CHAPTER 11 TRUSTEE, FOR  
ENTRY OF AN ORDER AUTHORIZING THE EMPLOYMENT OF  
JONES LANG LASALLE AMERICAS, INC., JONES LANG LASALLE  
BROKERAGE, INC., AND JONES LANG LASALLE AMERICAS (ILLINOIS) LP, AS  
REAL ESTATE BROKER FOR THE TRUSTEE**

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Michael F. Thomson, the duly appointed Chapter 11 trustee of the bankruptcy estate of The Falls Event Center LLC (the "Trustee"), hereby applies to the Court for an order pursuant to 11 U.S.C. § 327 and Federal Rule of Bankruptcy Procedure 2014, authorizing him to employ and retain Jones Lang LaSalle Americas, Inc., Jones Lang LaSalle Brokerage, Inc., and Jones Lang LaSalle Americas (Illinois) LP, (collectively, "JLL") as real estate broker for each of the Debtor's subsidiaries set forth below. This application is accompanied by the Amended

Declaration of Brian Anderson (the "Amended Anderson Declaration"). In support of this application, the Trustee represents as follows:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **BACKGROUND**

2. On July 11, 2018, The Falls Event Center LLC ("The Falls" or "Debtor") filed a voluntary petition in this Court under Chapter 11 of the Bankruptcy Code.

3. On November 1, 2018, the UST, the Debtor, and the Official Committee of Unsecured Creditors (the "Committee") filed its stipulation for the appointment of a Chapter 11 trustee [Docket No. 183] (the "Stipulation").

4. On November 1, 2018, the UST filed his motion to appoint a Chapter 11 Trustee and approve the Stipulation [Docket No. 184].

5. On November 14, 2018, the Court entered the order granting the Stipulation and directing the UST to appoint a qualified person to serve as Chapter 11 trustee for The Falls estate. [Docket No. 204].

6. On November 26, 2018, the UST appointed the Trustee as Chapter 11 trustee in this case.

7. On November 27, 2018, the Court entered an order approving the appointment of the Trustee as the Chapter 11 trustee of The Falls' estate. [Docket No. 214].

**PRIOR REQUEST FOR RETENTION OF JLL BY THE DEBTOR**

8. On October 29, 2018, the Debtor filed its *Application of Debtors for Entry of Orders Authorizing the Debtors to Retain and Employ Jones Lang LaSalle Americas, Inc. as Real Estate Broker*. [Docket No. 175] (the “Original Application”).

9. On October 29, 2018, the Debtor filed its *Declaration of Brian Anderson in Support of the Application of the Debtors for Entry of Orders Authorizing the Debtors to Retain and Employ Jones Lang LaSalle Americas, Inc. as Real Estate Broker* [Docket No. 176] (the “Anderson Declaration”).

10. On November 7, 2018, the Debtor filed its *Amended Application of the Debtors for Entry of Orders Authorizing the Debtors to Retain and Employ Jones Lang LaSalle Americas Inc. as Real Estate Broker* [Docket No. 194] (the “Amended Application”).

11. On December 4, 2018, a hearing was held on the Amended Application, and as a result of that hearing, the Trustee is submitting this revised *Application of Michael F. Thomson, Chapter 11 Trustee, for Entry of an Order Authorizing the Employment of Jones Lang LaSalle Americas, Inc. and its Local Licensed Affiliates as Real Estate Broker for the Trustee*, and the revised Listing Agreements attached hereto as Exhibits 1-7, respectively.

**RETENTION OF JLL BY THE TRUSTEE**

12. The Debtor has multiple wholly owned subsidiaries which each own specific pieces of real property.

13. After discussions with JLL, his accountants, and the committee, the Trustee, acting as manager for each of the wholly owned subsidiaries deems it prudent to employ JLL as real estate broker for each of the following entities, as set forth in the Listing Agreements,

attached hereto as Exhibits 1-7, respectively, and JLL is willing to provide such services to the Trustee:

Entity/Subsidiary	Property Address
The Falls at Clovis LLC, Debtor-in-Possession, Case No. 18-28140 (“ <u>Debtor Clovis</u> ”)	250 & 270 North Clovis Ave, Clovis, CA 96312 (the “ <u>Clovis Property</u> ”) <sup>1</sup>
The Falls at Austin Bluffs, LLC (“ <u>Austin Bluffs</u> ”)	Township 13 South Range 66 West Ely Paso County, Colorado (the “ <u>Austin Bluffs Property</u> ”). <sup>2</sup>
The Falls at Burr Ridge, LLC (“ <u>Burr Ridge</u> ”)	120 Harvester Drive, Burr Ridge, IL 60527 (the “ <u>Burr Ridge Property</u> ”) <sup>3</sup>
The Falls at Beaverton, LLC (“ <u>Beaverton</u> ”)	12655 Southwest Miliken Way, Beaverton, OR (the “ <u>Beaverton Property</u> ”) <sup>4</sup>
The Falls at Stone Oak Parkway, LLC (“ <u>Stone Oak</u> ”)	S Side of Stone Oak Parkway West of HWY 281, San Antonio, TX 78258 (the “ <u>Stone Oak Property</u> ”) <sup>5</sup>
The Falls at Cutten Road, LLC (“ <u>Cutten Road</u> ”)	13455 Cutten Road, Houston, TX 77069 (the “ <u>Cutten Road Property</u> ”) <sup>6</sup>
The Falls at St. George, LLC, Debtor-in-Possession, Case No. 18-26653 (“ <u>Debtor St. George</u> ”)	170 South Mall Drive, St. George, UT 84790 (the “ <u>St. George Property</u> ”) <sup>7</sup>

14. For the reasons set forth in the Debtor’s Application and Amended Application, which are hereby incorporated herein by reference, the Trustee believes that the employment of

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<sup>1</sup> See Ex. 1.  
<sup>2</sup> See Ex. 2.  
<sup>3</sup> See Ex. 3.  
<sup>4</sup> See Ex. 4.  
<sup>5</sup> See Ex. 5.  
<sup>6</sup> See Ex. 6.  
<sup>7</sup> See Ex. 7.

JLL, which is a nationally recognized real estate brokerage firm with offices and operations in many parts of the United States, is in the best interest of the Debtor's creditors.

**DISINTERESTEDNESS**

15. To the best of the Trustee's knowledge, neither JLL nor the JLL Project Team has any financial interest or business connection with the Debtors or any of their officers, directors, employees, managers or members.

16. As set forth in the Amended Anderson Declaration, JLL confirms that it is not aware of any conflicts in connection with the Agreement, and further confirms the following: (a) to the best of its knowledge, except as set forth in the Amended Anderson Declaration, neither JLL nor the JLL Project Team has any undisclosed connection with the Debtor, or any of its creditors or any party in interest, or its respective attorneys or accountants, or any other interest adverse to the estate, (b) to the best of its knowledge, except as set forth in the Amended Anderson Declaration, neither JLL nor the JLL Project Team has any direct or indirect relationship to, connection with, or interest in the Debtor, any of the Debtor's creditors, any other party in interest, any of their respective attorneys and accounts, the United States Trustee, or any person employed by the office of the United States Trustee, and (c) to the best of JLL's knowledge, JLL and the JLL Project Team are disinterested persons as provided in sections 101(14) and 327 of the Bankruptcy Code, and do not represent or hold an undisclosed interest adverse to the interest of the Debtor or its estate.

17. Based on the foregoing, to the best of the Trustee's knowledge, JLL and JLL's Project Team, are disinterested persons as provided in Sections 101, 327, and 328 of the Bankruptcy Code, and do not represent or hold an interest adverse to the interests of the estate.

**NOTICE**

18. Notice of this Application has been given to the Office of the United States Trustee for this region and all parties who receive service upon electronic filing through the Court's CM/ECF system.

**CONCLUSION**

19. The Trustee believes it is in the best interests of the Debtor's estate that JLL be employed pursuant to the terms and provisions set forth in this Application and the attached Listing Agreements.

WHEREFORE, the Trustee respectfully requests that the Trustee be authorized, pursuant to 11 U.S.C. § 327(a), and in accordance with Rule 2014(a) of the Federal Rules of Bankruptcy Procedure, to employ JLL as real estate broker for the Trustee.

DATED this 16<sup>th</sup> day of January, 2019.

/s/ Jessica G. McKinlay

Michael F. Thomson

Peggy Hunt

Jessica G. McKinlay

DORSEY & WHITNEY LLP

Attorneys for Chapter 11 Trustee

**CERTIFICATE OF SERVICE, BY NOTICE OF ELECTRONIC FILING**

I hereby certify that on the 16<sup>th</sup> day of January, 2019, I electronically filed the foregoing **APPLICATION OF MICHAEL F. THOMSON, CHAPTER 11 TRUSTEE, FOR ENTRY OF AN ORDER AUTHORIZING THE EMPLOYMENT OF JONES LANG LASALLE AMERICAS, INC., JONES LANG LASALLE BROKERAGE, INC., AND JONES LANG LASALLE AMERICAS (ILLINOIS) LP, AS REAL ESTATE BROKER FOR THE TRUSTEE** with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I further certify that the parties of record in this case, as identified below, are registered CM/ECF users and will be served through the CM/ECF system.

- James W. Anderson jwa@clydesnow.com, jritchie@clydesnow.com
- David P. Billings dbillings@fabianvancott.com, jwinger@fabianvancott.com;mdewitt@fabianvancott.com
- Laurie A. Cayton tr laurie.cayton@usdoj.gov, James.Gee@usdoj.gov;Lindsey.Huston@usdoj.gov;Suzanne.Verhaal@usdoj.gov
- Thomas E. Goodwin tgoodwin@parrbrown.com, nmckean@parrbrown.com
- Oren Buchanan Haker oren.haker@stoel.com, jennifer.lowes@stoel.com;daniel.kubitz@stoel.com;alyssa.petroff@stoel.com
- Mark E. Hindley mehindley@stoel.com, rnoss@stoel.com;slcdocket@stoel.com
- Mary Margaret Hunt hunt.peggy@dorsey.com, long.candy@dorsey.com
- Michael R. Johnson mjohanson@rqn.com, docket@rqn.com;dburton@rqn.com
- Peter J. Kuhn tr Peter.J.Kuhn@usdoj.gov, James.Gee@usdoj.gov;Lindsey.Huston@usdoj.gov;Suzanne.Verhaal@usdoj.gov
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- Ellen E Ostrow eeostrow@hollandhart.com, intaketeam@hollandhart.com;lahansen@hollandhart.com
- Chad Rasmussen chad@alpinalegal.com, contact@alpinalegal.com
- Michael S. Steck michael@clariorlaw.com
- Mark S. Swan mark@swanlaw.net
- Richard C. Terry richard@tjblawyers.com, cbcecf@yahoo.com
- Michael F. Thomson tr thomson.michael@dorsey.com, UT17@ecfcbis.com;montoya.michelle@dorsey.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov
- Brent D. Wride bwride@rqn.com, docket@rqn.com;pbrown@rqn.com

**CERTIFICATE OF SERVICE – MAIL, OTHER**

I hereby certify that on this 16<sup>th</sup> day of January, 2019 I caused to be served a true and correct copy of the foregoing **APPLICATION OF MICHAEL F. THOMSON, CHAPTER 11**

**TRUSTEE, FOR ENTRY OF AN ORDER AUTHORIZING THE EMPLOYMENT OF JONES LANG LASALLE AMERICAS, INC., JONES LANG LASALLE BROKERAGE, INC., AND JONES LANG LASALLE AMERICAS (ILLINOIS) LP, AS REAL ESTATE BROKER FOR THE TRUSTEE as follows:**

**Mail Service – By regular first class United States Mail, postage fully pre-paid, addressed to:**

Jones Lang LaSalle Americas, Inc.  
c/o Brian Anderson  
111 South Main Street, Suite 300  
Salt Lake City, Utah 84111

Jones Lang LaSalle  
200 East Randolph Drive  
Chicago, IL 60601  
Attention: Regional Counsel

Richard N. Bauer  
1789 Bella Lago Drive  
Clermont, FL 34711-4634

Albert B Clark  
696 East 1220 North  
Orem, UT 84097

Alan C. Hochheiser  
Maurice Wutscher LLP  
2000 Auburn Drive, Suite 200  
One Chagrin Highlands  
Beachwood, OH 44122

Richard W. Johnston  
6855 S. Havana St. #275  
Centennial, CO 80112-3813

Gil Miller  
Rocky Mountain Advisory  
215 South State Street Ste 550  
Salt Lake City, UT 84111

State of Oregon  
Department of Revenue  
955 Center St NE  
Salem, OR 97301-2555

/s/ Erin Johnson



# EXHIBIT 1



## LISTING AGREEMENT

This AGREEMENT, dated as of the last date written below, by and between Michael F. Thomson, Chapter 11 Trustee (the “Trustee”) for The Falls Event Center, LLC (“Debtor TFEC” in Case No. 18-25116 (the “TFEC Case”) pending in the United States Bankruptcy Court for the District of Utah (the “Bankruptcy Court”), and JONES LANG LASALLE BROKERAGE, INC., (hereinafter “JLL”). In his capacity as the Chapter 11 Trustee for Debtor TFEC, the Trustee manages The Falls at Clovis, LLC (“Debtor Clovis”), the Debtor-in-Possession in Chapter 11 Case No. 18-28140 (the “Clovis Case”).

### BACKGROUND

- A. Debtor Clovis owns real property located at 250 & 270 North Clovis Avenue, Clovis, California 68312 (the “Property”).
- B. The Trustee desires to engage JLL as its sole and exclusive sales agent for the Property.
- C. JLL desires to accept such employment and is engaged in the business of marketing properties.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### ARTICLE 1. TERM; TERMINATION

1.1 Bankruptcy Court Approval/Initial Term. This Agreement is subject to approval by the Bankruptcy Court. JLL's duties and responsibilities under this Agreement shall begin upon entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL, and shall end twelve (12) months thereafter, unless sooner terminated as provided herein.

1.2 Termination. Either party may, at its option and in its sole and absolute discretion, elect to terminate this Agreement upon sixty (60) days' prior written notice to the other party. To the extent not prohibited by law, this Agreement shall automatically be renewed on a month-to-month basis on its existing terms and conditions unless written notice to the contrary is given by either party not less than thirty (30) days prior to the end of a term.

### ARTICLE 2. SERVICES

2.1 Services. The Trustee hereby engages, subject to Bankruptcy Court approval, JLL as its exclusive broker for the purpose of selling the Property (the “Services”). JLL shall perform the Services in accordance with applicable professional standards. The Trustee shall refer all inquiries to JLL and conduct all negotiations through JLL (under the supervision, direction and control of Trustee), but JLL has no authority to obligate the Trustee, the bankruptcy estate of Debtor Clovis or Debtor Clovis until expressly authorized in writing by the Trustee. Dave White and John Brecher of JLL, and, to the extent allowed by local law, Brian Anderson and Wick Udy of JLL (the “Project Team”) will perform the Services under this Agreement. JLL may cooperate with cooperating brokers, including representatives of JLL or its affiliates other than Project Team members (“JLL Non-Team Brokers”), in selling the Property. In such case, the JLL Non-Team Brokers shall be considered cooperating brokers for purposes of this Agreement. In the event that a cooperating broker shall procure a purchaser of the Property, and such party purchases the Property from Debtor Clovis through the Trustee, the bankruptcy estate of Debtor Clovis shall pay JLL and the cooperating broker the commissions computed in accordance with the rates set forth on Schedule A to this Agreement. In

the event any Project Team member exclusively represents a prospective party, such Project Team member will recuse himself or herself from representation of Trustee hereunder and will be considered a JLL Non-Team Broker for purposes of the applicable sale transaction, and the remaining Project Team members will continue to represent Trustee pursuant to the terms of this Agreement. Such recused Project Team member shall in all events maintain the confidentiality of Debtor Clovis and the Trustee's confidential information. All final business decisions shall be made solely by Trustee, and may be subject to approval by the Bankruptcy Court. All sale agreements shall be prepared by Trustee's counsel with assistance from JLL.

2.2 Intentionally deleted.

2.3 Intentionally deleted.

2.4 Intentionally deleted.

2.5 Technical Matters. Trustee acknowledges that JLL is not an expert in and is not responsible for any legal, regulatory, tax, accounting, engineering, environmental or other technical matters, all of which shall be solely Trustee's responsibility. JLL shall, based on its professional expertise, assist Trustee in connection with such matters, including giving the Trustee recommendations as to experts to use for such matters and coordinating the work of such experts with the other parties working on the transaction, but in no event shall JLL have responsibility for the work of such experts.

#### ARTICLE 3. INDEMNIFICATION

JLL will defend (with counsel reasonably acceptable to Trustee), indemnify and hold harmless Trustee, Debtor Clovis and its affiliates, and each and all of their officers, directors, employees, partners and agents, from and against all third party claims, losses, liabilities and expenses, including reasonable attorneys' fees, expert witness fees and court costs ("**Loss**"), to the extent arising out of JLL's gross negligence or intentional misconduct in connection with this Agreement.

#### ARTICLE 4. COMPENSATION

JLL shall receive remuneration for its services in accordance with the terms of this Agreement and Schedule A.

#### ARTICLE 5. NOTICES

All notices, demands, consents and reports provided for in this Agreement shall be in writing and shall be given to Trustee or JLL at the address set forth below or at such other address as they individually may specify thereafter in writing:

TRUSTEE: Michael F. Thomson, Trustee  
c/o Peggy Hunt  
Dorsey & Whitney LLP  
111 S. Main, Suite 2100  
Salt Lake City, UT 84111

JLL: Jones Lang LaSalle  
500 Capitol Mall, Suite 2300  
Sacramento, CA 95814  
Attention: Dave White

Jones Lang LaSalle  
111 S. Main St.  
Suite 300  
Salt Lake City, UT 84111  
Attention: Brian Anderson

with copies to: Jones Lang LaSalle  
200 East Randolph Drive  
Chicago, IL 60601  
Attention: Regional Counsel

Such notice or other communication shall be delivered by hand or by nationally recognized overnight courier service. For purposes of this Agreement, notices will be deemed to have been given upon receipt or refusal of receipt.

#### ARTICLE 6. GENERAL PROVISIONS

6.1 Confidentiality; Publicity. JLL shall keep confidential all non-public information obtained from Trustee relating to the Services, except as reasonably required in order to perform Services hereunder, for the term of this Agreement and for two (2) years after the expiration or termination of this Agreement. In addition, any and all data and studies created in connection with the Services shall belong to Trustee. Trustee agrees that JLL may publicize its role in any transaction Trustee enters into, provided JLL does not disclose any financial information regarding such transaction. JLL may use Trustee's name in a list of clients for marketing and promotional purposes.

6.2 Limited Liability. Neither party shall be liable to the other for, and each party hereby waives any and all rights to claim against the other, any special, indirect, incidental, consequential, punitive or exemplary damages in connection with this Agreement, including, but not limited to, lost profits, even if the party has knowledge of the possibility of such damages. In no event shall JLL's liability to Trustee for any transaction exceed the fees paid to JLL in connection with such transaction.

6.3 Miscellaneous. This Agreement, together with the Rider(s), Schedule(s) and Exhibits(s), if any, attached hereto, represents the complete and final understanding between JLL and Trustee with respect to the Services and may not be waived, amended, or modified by either party unless such waiver, amendment or modification is in writing and signed by both parties. If any provision of this Agreement is invalid under applicable law, such invalidity shall not affect the other provisions of this Agreement. This Agreement shall be governed by the laws of the state of Utah. This Agreement is binding upon the parties hereto and their respective successors and assigns; provided, however, this Agreement may not be assigned by either party except to any other entity that acquires all or substantially all of the business and employees of such party, and except that JLL may delegate its duties to a state-licensed affiliate. All disputes related to this Agreement are subject to the jurisdiction of the Bankruptcy Court, and JLL expressly consents to jurisdiction in the Bankruptcy Court.

6.4 Non-Discrimination. The parties hereto acknowledge that it is illegal to refuse to display, lease or sell to or from any person because of one's membership in a protected class, e.g., race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other protected class, and agree not to discriminate unlawfully against anyone in a protected class.

6.5 Survival. The provisions of Section 1.3, Articles 3, 4 and Sections 6.1, 6.2, 6.5, 6.6, 6.7, and 6.8 of this Agreement shall survive the expiration or termination of this Agreement.

6.6 Attorney's Fees; JURY WAIVER; Late Payments. If either party shall institute any action or proceeding against the other relating to the provisions of this Agreement, the unsuccessful party in the action or proceeding shall reimburse the prevailing party for all reasonable expenses and attorneys' fees and disbursements. THE PARTIES HEREBY WAIVE TRIAL BY JURY. Delinquent payments hereunder shall earn interest at the rate of one-and-a-half percent (1 ½%) per month from the date due until paid.

6.7 Intentionally omitted.

6.8 Counterparts; Electronic/Facsimile Signature. This Agreement 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 instrument. The parties agree that an electronic or facsimile signature shall be considered an original signature.

6.9 Authorization. The individual executing this Agreement personally certifies and warrants that he or she is duly authorized to sign this Agreement, and that by his or her execution hereof, this Agreement shall be legally binding and enforceable upon the entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL.

6.10 OFAC. Trustee represents and warrants that neither it nor any of its employees is a person or entity with whom U.S. entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order or other governmental action.

6.11 Trustee Liability Limited/Court Approval. The Trustee and his attorneys and agents shall have no personal liability under this Agreement. JLL expressly understands and agrees that any amounts owed under this Agreement shall be paid through the bankruptcy estate of Debtor Clovis. JLL acknowledges that sales of the Property may be, in the Trustee's sole discretion, subject to Bankruptcy Court approval, and in the event that the Bankruptcy Court does not approve a sale of Property, the Trustee, Debtor Clovis, and the Debtor Clovis' bankruptcy estate shall have no liability to JLL or any other party.

#### ARTICLE 7. CALIFORNIA STATE-SPECIFIC PROVISIONS

7.1 License Number(s). The license number(s) of JLL and each of the members of the Project Team representing Trustee hereunder are set forth in the table below:

<b>Project Team Member</b>	<b>License Number</b>
Dave White	01759894
John Brecher	01897931
Brian Anderson*	
Wick Udy*	
Jones Lang LaSalle Brokerage, Inc.	01856260

\* Licensed under Jones Lang LaSalle Americas, Inc. in Utah

7.2 Real Estate Agency Relationship Disclosure. Trustee acknowledges that it has received the "Disclosure Regarding Real Estate Agency Relationship" attached hereto as EXHIBIT I.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first written below.

Michael F. Thomson, Chapter 11 Trustee for **The Falls Event Center, LLC**,  
Case No. 18-25116

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**The Falls at Clovis, LLC**, the  
Debtor-in-Possession in Chapter 11 Case No. 18-28140

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**JONES LANG LASALLE BROKERAGE, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

CA R.E. License #: 01856260

Date: \_\_\_\_\_

**SCHEDULE A**

**JLL'S COMPENSATION**

II. Sale Transaction Fee

- Without a Cooperating Broker: Five percent (5%) of the Gross Proceeds
- With a Cooperating Broker: Six percent (6%) of the Gross Proceeds, to be shared equally between JLL and the cooperating broker.

For purposes of calculating the Sale Transaction Fee payable under this Agreement, the term "Gross Proceeds" shall mean the total fair market value of the gross consideration (including, without limitation, cash, notes, securities, property, obligations or mortgages assumed or taken subject to, and any other form of consideration) to be received by the Debtor Clovis and/or its investors in connection with the Transaction (as defined below). Gross Proceeds shall include any portion of the purchase price placed in escrow or subject to a holdback as part of the Transaction, but shall not be adjusted by any fees, prorations or closing expenses. The Sale Transaction Fee will become due and payable by Trustee upon consummation of a Transaction, whether or not through the efforts of JLL, provided Trustee has entered into a letter of intent or definitive agreement for the Transaction during the term of this Agreement.

For purposes of this Agreement, the term "Transaction" shall include a direct or indirect transaction with respect to the Property or of the interests in any entity holding title to the Property, whether accomplished through a sale, merger, consolidation or otherwise; any direct or indirect transaction with respect to a partial ownership interest in the Property; or any capital investment structured as a financing, joint venture or any combination thereof. In no event, however, shall a Transaction be deemed to have occurred if the Transaction does not close for any reason; and in such case, JLL shall not be entitled to any Sale Transaction Fee.

**EXHIBIT I**

**DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIP  
(as required by the California Civil Code)**

When you enter into a discussion with a real estate agent regarding a real estate transaction, you should from the outset understand what type of agency relationship or representation you wish to have with the agent in the transaction.

**SELLER'S AGENT**

A Seller's agent under a listing agreement with the Seller acts as the agent for the Seller only. A Seller's agent or a subagent of that agent has the following affirmative obligations:

To the Seller:

- a. A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Seller.

To the Buyer and the Seller:

- a. Diligent exercise of reasonable skill and care in performance of the agent's duties.
- b. A duty of honest and fair dealing and good faith.
- c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

**BUYER'S AGENT**

A selling agent can, with a Buyer's consent, agree to act as agent for the Buyer only. In these situations, the agent is not the Seller's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Seller. An agent acting only for a Buyer has the following affirmative obligations:

To the Buyer:

- a. A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Buyer.

To the Buyer and the Seller:

- a. Diligent exercise of reasonable skill and care in performance of the agent's duties.
- b. A duty of honest and fair dealing and good faith.
- c. A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the parties.

An agent is not obligated to reveal to either party any confidential information obtained from the other party that does not involve the affirmative duties set forth above.

**AGENT REPRESENTING BOTH SELLER AND BUYER**

A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Seller and the Buyer in a transaction, but only with the knowledge and consent of both the Seller and the Buyer.

In a dual agency situation, the agent has the following affirmative obligations to both the Seller and the Buyer:

- a. A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either the Seller or the Buyer.
- b. Other duties to the Seller and the Buyer as stated above in their respective sections.

In representing both Seller and Buyer, the agent may not, without the express permission of the respective party, disclose to the other party that the Seller will accept a price less than the listing price or that the Buyer will pay a price greater than the price offered.

The above duties of the agent in a real estate transaction do not relieve a Seller or Buyer from the responsibility to protect his or her own interests. You should carefully read all agreements to assure that they adequately express your understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional.

Throughout your real property transaction you may receive more than one disclosure form, depending upon the number of agents assisting in the transaction. The law requires each agent with whom you have more than a casual relationship to present you with this disclosure form. You should read its contents each time it is presented to you, considering the relationship between you and the real estate agent in your specific transaction.

This disclosure form includes the provisions of Sections 2079.13 to 2079.24, inclusive, of the Civil Code set forth on the reverse hereof. Read it carefully.

**I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS DISCLOSURE AND THE PORTIONS OF THE CALIFORNIA CIVIL CODE PRINTED ON THE FOLLOWING PAGE.**

**We acknowledge that Agent represents us as (check one):**

Buyer     Seller \_\_\_\_\_ Date \_\_\_\_\_

Agent: Jones Lang LaSalle Brokerage, Inc.



**CA Civil Code Sections 2079.13 through 2079.24 (2079.16 appears on the previous page)**

**2079.13.** As used in Sections 2079.7, and 2079.14 to 2079.24, inclusive, the following terms have the following meanings: **(a) "Agent"** means a person acting under provisions of Title 9 (commencing with Section 2295) in a real property transaction, and includes a person who is licensed as a real estate broker under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code, and under whose license a listing is executed or an offer to purchase is obtained. **(b) "Associate licensee"** means a person who is licensed as a real estate broker or salesperson under Chapter 3 (commencing with Section 10130) of Part 1 of Division 4 of the Business and Professions Code and who is either licensed under a broker or has entered into a written contract with a broker to act as the broker's agent in connection with acts requiring a real estate license and to function under the broker's supervision in the capacity of an associate licensee. The agent in the real property transaction bears responsibility for his or her associate licensees who perform as agents of the agent. When an associate licensee owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the associate licensee functions. **(c) "Buyer"** means a transferee in a real property transaction, and includes a person who executes an offer to purchase real property from a seller through an agent, or who seeks the services of an agent in more than a casual, transitory, or preliminary manner, with the object of entering into a real property transaction. "Buyer" includes vendee or lessee. **(d) "Commercial real property"** means all real property in the state, except single-family residential real property, dwelling units made subject to Chapter 2 (commencing with Section 1940) of Title 5, mobilehomes, as defined in Section 798.3, or recreational vehicles, as defined in Section 799.29. **(e) "Dual agent"** means an agent acting, either directly or through an associate licensee, as agent for both the seller and the buyer in a real property transaction. **(f) "Listing agreement"** means a contract between an owner of real property and an agent, by which the agent has been authorized to sell the real property or to find or obtain a buyer. **(g) "Listing agent"** means a person who has obtained a listing of real property to act as an agent for compensation. **(h) "Listing price"** is the amount expressed in dollars specified in the listing for which the seller is willing to sell the real property through the listing agent. **(i) "Offering price"** is the amount expressed in dollars specified in an offer to purchase for which the buyer is willing to buy the real property. **(j) "Offer to purchase"** means a written contract executed by a buyer acting through a selling agent that becomes the contract for the sale of the real property upon acceptance by the seller. **(k) "Real property"** means any estate specified by subdivision (1) or (2) of Section 761 in property that constitutes or is improved with one to four dwelling units, any commercial real property, any leasehold in these types of property exceeding one year's duration, and mobilehomes, when offered for sale or sold through an agent pursuant to the authority contained in Section 10131.6 of the Business and Professions Code. **(l) "Real property transaction"** means a transaction for the sale of real property in which an agent is employed by one or more of the principals to act in that transaction, and includes a listing or an offer to purchase. **(m) "Sell," "sale," or "sold"** refers to a transaction for the transfer of real property from the seller to the buyer, and includes exchanges of real property between the seller and buyer, transactions for the creation of a real property sales contract within the meaning of Section 2985, and transactions for the creation of a leasehold exceeding one year's duration. **(n) "Seller"** means the transferor in a real property transaction, and includes an owner who lists real property with an agent, whether or not a transfer results, or who receives an offer to purchase real property of which he or she is the owner from an agent on behalf of another. "Seller" includes both a vendor and a lessor. **(o) "Selling agent"** means a listing agent who acts alone, or an agent who acts in cooperation with a listing agent, and who sells or finds and obtains a buyer for the real property, or an agent who locates property for a buyer or who finds a buyer for a property for which no listing exists and presents an offer to purchase to the seller. **(p) "Subagent"** means a person to whom an agent delegates agency powers as provided in Article 5 (commencing with Section 2349) of Chapter 1 of Title 9. However, "subagent" does not include an associate licensee who is acting under the supervision of an agent in a real property transaction.

**2079.14.** Listing agents and selling agents shall provide the seller and buyer in a real property transaction with a copy of the disclosure form specified in Section 2079.16, and, except as provided in subdivision (c), shall obtain a signed acknowledgment of receipt from that seller or buyer, except as provided in this section or Section 2079.15, as follows: **(a)** The listing agent, if any, shall provide the disclosure form to the seller prior to entering into the listing agreement. **(b)** The selling agent shall provide the disclosure form to the seller as soon as practicable prior to presenting the seller with an offer to purchase, unless the selling agent previously provided the seller with a copy of the disclosure form pursuant to subdivision (a). **(c)** Where the selling agent does not deal on a face-to-face basis with the seller, the disclosure form prepared by the selling agent may be furnished to the seller (and acknowledgment of receipt obtained for the selling agent from the seller) by the listing agent, or the selling agent may deliver the disclosure form by certified mail addressed to the seller at his or her last known address, in which case no signed acknowledgment of receipt is required. **(d)** The selling agent shall provide the disclosure form to the buyer as soon as practicable prior to execution of the buyer's offer to purchase, except that if the offer to purchase is not prepared by the selling agent, the selling agent shall present the disclosure form to the buyer not later than the next business day after the selling agent receives the offer to purchase from the buyer.

**2079.15.** In any circumstance in which the seller or buyer refuses to sign an acknowledgment of receipt pursuant to Section 2079.14, the agent, or an associate licensee acting for an agent, shall set forth, sign, and date a written declaration of the facts of the refusal.

**2079.17. (a)** As soon as practicable, the selling agent shall disclose to the buyer and seller whether the selling agent is acting in the real property transaction exclusively as the buyer's agent, exclusively as the seller's agent, or as a dual agent representing both the buyer and the seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller, the buyer, and the selling agent prior to or coincident with execution of that contract by the buyer and the seller, respectively. **(b)** As soon as practicable, the listing agent shall disclose to the seller whether the listing agent is acting in the real property transaction exclusively as the seller's agent, or as a dual agent representing both the buyer and seller. This relationship shall be confirmed in the contract to purchase and sell real property or in a separate writing executed or acknowledged by the seller and the listing agent prior to or coincident with the execution of that contract by the seller. **(c)** The confirmation required by subdivisions (a) and (b) shall be in the following form:

\_\_\_\_\_  
(Name of Listing Agent) **(DO NOT COMPLETE, SAMPLE ONLY)** is the agent of (check one):  the landlord/seller exclusively  
 both the tenant/buyer and landlord/seller

\_\_\_\_\_  
(Name of Selling Agent if not the same as Listing Agent) **(DO NOT COMPLETE, SAMPLE ONLY)** is the agent of (check one):  the tenant/buyer exclusively  
 the landlord/seller exclusively  
 both the tenant/buyer and the landlord/seller

**(d)** The disclosures and confirmation required by this section shall be in addition to the disclosure required by Section 2079.14.

**2079.18.** No selling agent in a real property transaction may act as an agent for the buyer only, when the selling agent is also acting as the listing agent in the transaction.

**2079.19.** The payment of compensation or the obligation to pay compensation to an agent by the seller or buyer is not necessarily determinative of a particular agency relationship between an agent and the seller or buyer. A listing agent and a selling agent may agree to share any compensation or commission paid, or any right to any compensation or commission for which an obligation arises as the result of a real estate transaction, and the terms of any such agreement shall not necessarily be determinative of a particular relationship.

**2079.20.** Nothing in this article prevents an agent from selecting, as a condition of the agent's employment, a specific form of agency relationship not specifically prohibited by this article if the requirements of Section 2079.14 and Section 2079.17 are complied with.

**2079.21.** A dual agent shall not disclose to the buyer that the seller is willing to sell the property at a price less than the listing price, without the express written consent of the seller. A dual agent shall not disclose to the seller that the buyer is willing to pay a price greater than the offering price, without the express written consent of the buyer. This section does not alter in any way the duty or responsibility of a dual agent to any principal with respect to confidential information other than price.

**2079.22.** Nothing in this article precludes a listing agent from also being a selling agent, and the combination of these functions in one agent does not, of itself, make that agent a dual agent.

**2079.23. (a)** A contract between the principal and agent may be modified or altered to change the agency relationship at any time before the performance of the act which is the object of the agency with the written consent of the parties to the agency relationship. **(b)** A lender or an auction company retained by a lender to control aspects of a transaction of real property subject to this part, including validating the sales price, shall not require, as a condition of receiving the lender's approval of the transaction, the homeowner or listing agent to defend or indemnify the lender or auction company from any liability alleged to result from the actions of the lender or auction company. Any clause, provision, covenant, or agreement purporting to impose an obligation to defend or indemnify a lender or an auction company in violation of this subdivision is against public policy, void, and unenforceable.

**2079.24.** Nothing in this article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents and their associate licensees, subagents, and employees or to relieve agents and their associate licensees, subagents, and employees from liability for their conduct in connection with acts governed by this article or for any breach of a fiduciary duty or a duty of disclosure.

# EXHIBIT 2



## LISTING AGREEMENT

This AGREEMENT, dated as of the last date written below, by and between Michael F. Thomson, Chapter 11 Trustee (the “Trustee”) for The Falls Event Center, LLC (“Debtor TFEC” in Case No. 18-25116 (the “TFEC Case”) pending in the United States Bankruptcy Court for the District of Utah (the “Bankruptcy Court”), and JONES LANG LASALLE BROKERAGE, INC., (hereinafter “JLL”). In his capacity as the Chapter 11 Trustee for Debtor TFEC, the Trustee manages The Falls at Austin Bluffs, LLC (“Austin Bluffs LLC”).

### BACKGROUND

- A. Austin Bluffs LLC owns real property located at Township 13 South Range 66 West, Colorado Springs, El Paso County, Colorado (the “Property”).
- B. The Trustee desires to engage JLL as its sole and exclusive sales agent for the Property.
- C. JLL desires to accept such employment and is engaged in the business of marketing properties.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### ARTICLE 1. TERM; TERMINATION

1.1 Bankruptcy Court Approval/Initial Term. This Agreement is subject to approval by the Bankruptcy Court. JLL's duties and responsibilities under this Agreement shall begin upon entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL, and shall end twelve (12) months thereafter, unless sooner terminated as provided herein.

1.2 Termination. Either party may, at its option and in its sole and absolute discretion, elect to terminate this Agreement upon sixty (60) days' prior written notice to the other party. To the extent not prohibited by law, this Agreement shall automatically be renewed on a month-to-month basis on its existing terms and conditions unless written notice to the contrary is given by either party not less than thirty (30) days prior to the end of a term.

### ARTICLE 2. SERVICES

2.1 Services. The Trustee hereby engages, subject to Bankruptcy Court approval, JLL as its exclusive broker for the purpose of selling the Property (the “Services”). JLL shall perform the Services in accordance with applicable professional standards. The Trustee shall refer all inquiries to JLL and conduct all negotiations through JLL (under the supervision, direction and control of Trustee), but JLL has no authority to obligate the Trustee or Austin Bluffs LLC until expressly authorized in writing by the Trustee. Matt Witt and Beth Steeler of JLL, and, to the extent allowed by local law, Brian Anderson and Wick Udy of JLL (the “Project Team”) will perform the Services under this Agreement. JLL may cooperate with cooperating brokers, including representatives of JLL or its affiliates other than Project Team members (“JLL Non-Team Brokers”), in selling the Property. In such case, the JLL Non-Team Brokers shall be considered cooperating brokers for purposes of this Agreement. In the event that a cooperating broker shall procure a purchaser of the Property, and such party purchases the Property from Austin Bluffs LLC through the Trustee, Austin Bluffs LLC shall pay JLL and the cooperating broker the commissions computed in accordance with the rates set forth on Schedule A to this Agreement. In the event any Project Team member exclusively represents a

prospective party, such Project Team member will recuse himself or herself from representation of Trustee hereunder and will be considered a JLL Non-Team Broker for purposes of the applicable sale transaction, and the remaining Project Team members will continue to represent Trustee pursuant to the terms of this Agreement. Such recused Project Team member shall in all events maintain the confidentiality of Austin Bluffs LLC and the Trustee's confidential information. All final business decisions shall be made solely by Trustee, and may be subject to approval by the Bankruptcy Court. All sale agreements shall be prepared by Trustee's counsel with assistance from JLL.

2.2 Intentionally deleted.

2.3 Intentionally deleted.

2.4 Intentionally deleted.

2.5 Technical Matters. Trustee acknowledges that JLL is not an expert in and is not responsible for any legal, regulatory, tax, accounting, engineering, environmental or other technical matters, all of which shall be solely Trustee's responsibility. JLL shall, based on its professional expertise, assist Trustee in connection with such matters, including giving the Trustee recommendations as to experts to use for such matters and coordinating the work of such experts with the other parties working on the transaction, but in no event shall JLL have responsibility for the work of such experts.

#### ARTICLE 3. INDEMNIFICATION

JLL will defend (with counsel reasonably acceptable to Trustee), indemnify and hold harmless Trustee, Austin Bluffs LLC and its affiliates, and each and all of their officers, directors, employees, partners and agents, from and against all third party claims, losses, liabilities and expenses, including reasonable attorneys' fees, expert witness fees and court costs ("**Loss**"), to the extent arising out of JLL's gross negligence or intentional misconduct in connection with this Agreement.

#### ARTICLE 4. COMPENSATION

JLL shall receive remuneration for its services in accordance with the terms of this Agreement and Schedule A.

#### ARTICLE 5. NOTICES

All notices, demands, consents and reports provided for in this Agreement shall be in writing and shall be given to Trustee or JLL at the address set forth below or at such other address as they individually may specify thereafter in writing:

TRUSTEE: Michael F. Thomson, Trustee  
c/o Peggy Hunt  
Dorsey & Whitney LLP  
111 S. Main, Suite 2100  
Salt Lake City, UT 84111

JLL: Jones Lang LaSalle  
111 S. Main St., Suite 300  
Salt Lake City, UT 84111  
Attention: Brian Anderson

Jones Lang LaSalle  
1225 Seventeenth Street  
Denver, CO 80202  
Attention: Michael Crane

with copies to: Jones Lang LaSalle  
200 East Randolph Drive  
Chicago, IL 60601  
Attention: Regional Counsel

Such notice or other communication shall be delivered by hand or by nationally recognized overnight courier service. For purposes of this Agreement, notices will be deemed to have been given upon receipt or refusal of receipt.

#### ARTICLE 6. GENERAL PROVISIONS

6.1 Confidentiality; Publicity. JLL shall keep confidential all non-public information obtained from Trustee relating to the Services, except as reasonably required in order to perform Services hereunder, for the term of this Agreement and for two (2) years after the expiration or termination of this Agreement. In addition, any and all data and studies created in connection with the Services shall belong to Trustee. Trustee agrees that JLL may publicize its role in any transaction Trustee enters into, provided JLL does not disclose any financial information regarding such transaction. JLL may use Trustee's name in a list of clients for marketing and promotional purposes.

6.2 Limited Liability. Neither party shall be liable to the other for, and each party hereby waives any and all rights to claim against the other, any special, indirect, incidental, consequential, punitive or exemplary damages in connection with this Agreement, including, but not limited to, lost profits, even if the party has knowledge of the possibility of such damages. In no event shall JLL's liability to Trustee for any transaction exceed the fees paid to JLL in connection with such transaction.

6.3 Miscellaneous. This Agreement, together with the Rider(s), Schedule(s) and Exhibits(s), if any, attached hereto, represents the complete and final understanding between JLL and Trustee with respect to the Services and may not be waived, amended, or modified by either party unless such waiver, amendment or modification is in writing and signed by both parties. If any provision of this Agreement is invalid under applicable law, such invalidity shall not affect the other provisions of this Agreement. This Agreement shall be governed by the laws of the state of Utah. This Agreement is binding upon the parties hereto and their respective successors and assigns; provided, however, this Agreement may not be assigned by either party except to any other entity that acquires all or substantially all of the business and employees of such party, and except that JLL may delegate its duties to a state-licensed affiliate. All disputes related to this Agreement are subject to the jurisdiction of the Bankruptcy Court, and JLL expressly consents to jurisdiction in the Bankruptcy Court.

6.4 Non-Discrimination. The parties hereto acknowledge that it is illegal to refuse to display, lease or sell to or from any person because of one's membership in a protected class, e.g., race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other protected class, and agree not to discriminate unlawfully against anyone in a protected class.

6.5 Survival. The provisions of Section 1.3, Articles 3, 4 and Sections 6.1, 6.2, 6.5, 6.6, 6.7, and 6.8 of this Agreement shall survive the expiration or termination of this Agreement.

6.6 Attorney's Fees; JURY WAIVER; Late Payments. If either party shall institute any action or proceeding against the other relating to the provisions of this Agreement, the unsuccessful party in the action or proceeding shall reimburse the prevailing party for all reasonable expenses and attorneys' fees and disbursements. THE PARTIES HEREBY WAIVE TRIAL BY JURY. Delinquent payments hereunder shall earn interest at the rate of one-and-a-half percent (1 ½%) per month from the date due until paid.

6.7 Intentionally omitted.

6.8 Counterparts; Electronic/Facsimile Signature. This Agreement 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 instrument. The parties agree that an electronic or facsimile signature shall be considered an original signature.

6.9 Authorization. The individual executing this Agreement personally certifies and warrants that he or she is duly authorized to sign this Agreement, and that by his or her execution hereof, this Agreement shall be legally binding and enforceable upon the entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL.

6.10 OFAC. Trustee represents and warrants that neither it nor any of its employees is a person or entity with whom U.S. entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order or other governmental action.

6.11 Trustee Liability Limited/Court Approval. The Trustee and his attorneys and agents shall have no personal liability under this Agreement. JLL expressly understands and agrees that any amounts owed under this Agreement shall be paid through Austin Bluffs LLC. JLL acknowledges that sales of the Property may be, in the Trustee's sole discretion, subject to Bankruptcy Court approval, and in the event that the Bankruptcy Court does not approve a sale of Property, the Trustee and Austin Bluffs LLC shall have no liability to JLL or any other party.

## ARTICLE 7. COLORADO STATE-SPECIFIC PROVISIONS

7.1 This addendum has not been approved by the Colorado Real Estate Commission. It was prepared by JLL's legal counsel.

7.1.2 THIS IS A BINDING CONTRACT. THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

7.1.3 Compensation charged by brokerage firms is not set by law. Such charges are established by each real estate brokerage firm.

7.2. Brokerage Relationships.

7.2.1 Notice Regarding Brokerage Relationships. Different brokerage relationships are available which include landlord agency, tenant agency, seller agency, buyer agency or transaction-brokerage. The Colorado Real Estate Commission-approved definitions of working relationships are attached hereto as Schedule I.

7.2.2 In-Company Transactions – Different JLL Brokers. When Trustee and buyer in a transaction are working with different JLL brokers, those brokers continue to conduct themselves consistent with the brokerage relationships they have established with their respective clients. Trustee acknowledges that JLL is allowed to offer and pay compensation to brokers within JLL who are working with a buyer.

- 7.2.3 In-Company Transactions – Same JLL Brokers. If Trustee and buyer are working with the same JLL Project Team, such Project Team shall represent Trustee as the Trustee's agent and shall treat the buyer as a customer, unless Project Team currently has or enters into an agency or Transaction-Project Team relationship with the buyer, in which case Project Team shall act as a Transaction-Project Team.
- 7.2.4 Agency. The parties acknowledge that the Project Team are acting under a seller agency, and that the Project Team represent solely the Trustee under this Agreement.

7.3. Additional Services. Without limiting any other provision of the Agreement, the Project Team shall perform the following **Uniform Duties** when working with Trustee:

- 7.3.1 The Project Team shall exercise reasonable skill and care for Trustee, including, but not limited to the following:
- 7.3.1.1 Performing the terms of any written or oral agreement with Trustee;
  - 7.3.1.2 Presenting all offers to and from Trustee in a timely manner, regardless of whether the Property is subject to a purchase and sale agreement or letter of intent;
  - 7.3.1.3 Disclosing to Trustee adverse material facts actually known by the Project Team;
  - 7.3.1.4 Advising Trustee regarding the sale transaction and advising Trustee to obtain expert advice as to material matters about which the Project Team know but the specifics of which are beyond the expertise of the Project Team;
  - 7.3.1.5 Accounting in a timely manner for all money and property received, if any; and
  - 7.3.1.6 Keeping Trustee fully informed regarding the sale transaction.
- 7.3.2. The Project Team shall not disclose the following information without Trustee's informed consent:
- 7.3.2.1 That Trustee is willing to accept less than the asking sale price for the Property;
  - 7.3.2.2 The motivating factors for Trustee to sell the Property;
  - 7.3.2.3 That Trustee will agree to sale terms other than those offered;
  - 7.3.2.4 Any material information about Trustee unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing; or
  - 7.3.2.5 Any facts or suspicions regarding circumstances that could psychologically impact or stigmatize the Property.
- 7.3.3 Trustee consents to the Project Team's disclosure of Trustee's confidential information to the supervising broker or designee for the purpose of proper supervision, provided such supervising broker or designee does not further disclose such information without consent of Trustee, or use such information to the detriment of Trustee.
- 7.3.4 Trustee acknowledges that JLL may have agreements with other owners to market and sell their property.
- 7.3.5 JLL has no duty to conduct an independent inspection of the Property for the benefit of a purchaser and has no duty to independently verify the accuracy or completeness of statements made by Trustee or independent inspectors. JLL has no duty to conduct an independent investigation of a purchaser's financial condition or to verify the accuracy or completeness of any statement made by a purchaser.
- 7.3.6 Trustee understands that Trustee shall not be liable for the Project Team's acts or omissions that have not been approved, directed, or ratified by Trustee.
- 7.3.7 The Project Team may disclose to prospective purchasers and cooperating brokers the existence of offers to sell all or part of the Property and whether the offers were obtained by the Project Team, other brokers affiliated with JLL, or by another broker.



7.4. Additional Duties of the Project Team. Without limiting any other provision of the Agreement, the Project Team owes the Trustee the following additional duties:

- 7.4.1 Promoting the interests of Trustee with the utmost good faith, loyalty, and fidelity;
- 7.4.2 Seeking sale terms that are set forth in this Agreement or otherwise specified by Trustee; and
- 7.4.3 Counseling Trustee as to any material benefits or risks of a transaction that are actually known by the Project Team.

7.5. Limitation on Third-Party Compensation. JLL will not accept compensation from any other person or entity in connection with services provided by the Project Team hereunder in selling the Property without the written consent of Trustee. Moreover, JLL will neither assess nor receive markups or other compensation for services (other than services performed by brokers of JLL other than the Project Team) performed by any third-party or affiliated business entity unless Trustee signs a separate written agreement or otherwise consents to same.

7.6. Other Broker Assistance, Multiple Listing Services and Marketing. Trustee acknowledges having been advised by JLL of the advantages and disadvantages of various marketing methods, including advertising, and the use of multiple listing services ("MLS") such as services from CoStar Group®, and various methods of making the Property accessible by other brokerage firms, etc., and whether some methods may limit the ability of another broker to show the Property.

After having been so advised, Trustee agrees:

- 7.6.1 The Property may be submitted to one or more MLS and may be submitted to one or more property information exchanges. If submitted, Trustee authorizes JLL to provide timely notice of any status change to such MLS and information exchanges. Upon consummation of a transaction, Trustee authorizes JLL to provide listing information to such MLS and information exchanges.
- 7.6.2 Trustee authorizes the use of electronic mail and all other marketing methods unless Trustee agrees otherwise in writing.
- 7.6.3 Trustee agrees that the Property address and the Property listing may be displayed on the Internet.

7.7. Earnest Money. JLL will not accept earnest money. JLL will direct purchaser to submit any deposits directly to Trustee.

7.8. Material Defects, Disclosures, and Inspection.

- 7.8.1 Project Team's Obligations. Trustee agrees that the Project Team will disclose to any prospective purchaser all adverse material facts actually known by the Project Team including but not limited to adverse material facts pertaining to the title of the Property and the physical condition of the Property, any material defects in the Property, and any environmental hazards affecting the Property which are required by law to be disclosed. These types of disclosures may include such matters as structural defects, soil conditions, violations of health, zoning or building laws, and nonconforming uses and zoning variances. Trustee agrees that any prospective purchaser may have the Property and premises inspected.
- 7.8.2 Trustee's Obligations. Trustee shall disclose any material latent (not obvious) defects known by the Trustee as required by law. Trustee will provide written disclosure to the Project Team of adverse matters regarding the Property known by Trustee during the term of the Agreement.

7.9. Recommendation of Legal and Tax Counsel. Trustee acknowledges that JLL has advised that this document has important legal consequences and has recommended consultation with legal and tax or other counsel before signing the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first written below.

Michael F. Thomson, Chapter 11 Trustee for **The Falls Event Center, LLC**,  
Case No. 18-25116

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**The Falls at Austin Bluffs, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**JONES LANG LASALLE BROKERAGE, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
CO R.E. License #: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE A**

**JLL'S COMPENSATION**

II. Sale Transaction Fee

- Without a Cooperating Broker: Five percent (5%) of the Gross Proceeds
- With a Cooperating Broker: Six percent (6%) of the Gross Proceeds, to be shared equally between JLL and the cooperating broker.

For purposes of calculating the Sale Transaction Fee payable under this Agreement, the term "Gross Proceeds" shall mean the total fair market value of the gross consideration (including, without limitation, cash, notes, securities, property, obligations or mortgages assumed or taken subject to, and any other form of consideration) to be received by Austin Bluffs LLC and/or its investors in connection with the Transaction (as defined below). Gross Proceeds shall include any portion of the purchase price placed in escrow or subject to a holdback as part of the Transaction, but shall not be adjusted by any fees, prorations or closing expenses. The Sale Transaction Fee will become due and payable by Trustee upon consummation of a Transaction, whether or not through the efforts of JLL, provided Trustee has entered into a letter of intent or definitive agreement for the Transaction during the term of this Agreement.

For purposes of this Agreement, the term "Transaction" shall include a direct or indirect transaction with respect to the Property or of the interests in any entity holding title to the Property, whether accomplished through a sale, merger, consolidation or otherwise; any direct or indirect transaction with respect to a partial ownership interest in the Property; or any capital investment structured as a financing, joint venture or any combination thereof. In no event, however, shall a Transaction be deemed to have occurred if the Transaction does not close for any reason; and in such case, JLL shall not be entitled to any Sale Transaction Fee.

## SCHEDULE I

### DEFINITIONS OF WORKING RELATIONSHIPS

**Seller's Agent:** A seller's agent (or listing agent) works solely on behalf of the seller to promote the interests of the seller with the utmost good faith, loyalty and fidelity. The agent negotiates on behalf of and acts as an advocate for the seller. The seller's agent must disclose to potential buyers all adverse material facts actually known by the seller's agent about the property. A separate written listing agreement is required which sets forth the duties and obligations of the broker and the seller.

**Buyer's Agent:** A buyer's agent works solely on behalf of the buyer to promote the interests of the buyer with the utmost good faith, loyalty and fidelity. The agent negotiates on behalf of and acts as an advocate for the buyer. The buyer's agent must disclose to potential sellers all adverse material facts actually known by the buyer's agent including the buyer's financial ability to perform the terms of the transaction and if a residential property, whether the buyer intends to occupy the property. A separate written buyer agency agreement is required which sets forth the duties and obligations of the broker and the buyer.

**Transaction-Broker:** A transaction-broker assists the buyer or seller or both throughout a real estate transaction by performing terms of any written or oral agreement, fully informing the parties, presenting all offers and assisting the parties with any contracts, including the closing of the transaction without being an agent or advocate for any of the parties. A transaction-broker must use reasonable skill and care in the performance of any oral or written agreement, and must make the same disclosures as agents about all adverse material facts actually known by the transaction-broker concerning a property or a buyer's financial ability to perform the terms of a transaction and if a residential property, whether the buyer intends to occupy the property. No written agreement is required.

**Customer:** A customer is a party to a real estate transaction with whom the broker has no brokerage relationship because such party has not engaged or employed the broker, either as the party's agent or as the party's transaction-broker.

**EXHIBIT 3**



## LISTING AGREEMENT

This AGREEMENT, dated as of the last date written below, by and between Michael F. Thomson, Chapter 11 Trustee (the “Trustee”) for The Falls Event Center, LLC (“Debtor TFEC” in Case No. 18-25116 (the “TFEC Case”) pending in the United States Bankruptcy Court for the District of Utah (the “Bankruptcy Court”), and JONES LANG LASALLE AMERICAS (ILLINOIS), LP, (hereinafter “JLL”). In his capacity as the Chapter 11 Trustee for Debtor TFEC, the Trustee manages The Falls at Burr Ridge, LLC (“Burr Ridge LLC”).

### BACKGROUND

- A. Burr Ridge LLC owns real property located at 120 Harvester Drive, Burr Ridge, Illinois 60527 (the “Property”).
- B. The Trustee desires to engage JLL as its sole and exclusive sales agent for the Property.
- C. JLL desires to accept such employment and is engaged in the business of marketing properties.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### ARTICLE 1. TERM; TERMINATION

1.1 Bankruptcy Court Approval/Initial Term. This Agreement is subject to approval by the Bankruptcy Court. JLL's duties and responsibilities under this Agreement shall begin upon entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL, and shall end twelve (12) months thereafter, unless sooner terminated as provided herein.

1.2 Termination. Either party may, at its option and in its sole and absolute discretion, elect to terminate this Agreement upon sixty (60) days' prior written notice to the other party. To the extent not prohibited by law, this Agreement shall automatically be renewed on a month-to-month basis on its existing terms and conditions unless written notice to the contrary is given by either party not less than thirty (30) days prior to the end of a term.

### ARTICLE 2. SERVICES

2.1 Services. The Trustee hereby engages, subject to Bankruptcy Court approval, JLL as its exclusive broker for the purpose of selling the Property (the “Services”). JLL shall perform the Services in accordance with applicable professional standards. The Trustee shall refer all inquiries to JLL and conduct all negotiations through JLL (under the supervision, direction and control of Trustee), but JLL has no authority to obligate the Trustee or Burr Ridge LLC until expressly authorized in writing by the Trustee. Lindsey Fahey of JLL, and, to the extent allowed by local law, Brian Anderson and Wick Udy of JLL (the “Project Team”) will perform the Services under this Agreement. JLL may cooperate with cooperating brokers, including representatives of JLL or its affiliates other than Project Team members (“JLL Non-Team Brokers”), in selling the Property. In such case, the JLL Non-Team Brokers shall be considered cooperating brokers for purposes of this Agreement. In the event that a cooperating broker shall procure a purchaser of the Property, and such party purchases the Property from Burr Ridge LLC through the Trustee, Burr Ridge LLC shall pay JLL and the cooperating broker the commissions computed in accordance with the rates set forth on Schedule A to this Agreement. In the event any Project Team member exclusively represents a prospective party, such

Project Team member will recuse himself or herself from representation of Trustee hereunder and will be considered a JLL Non-Team Broker for purposes of the applicable sale transaction, and the remaining Project Team members will continue to represent Trustee pursuant to the terms of this Agreement. Such recused Project Team member shall in all events maintain the confidentiality of Burr Ridge LLC and the Trustee's confidential information. All final business decisions shall be made solely by Trustee, and may be subject to approval by the Bankruptcy Court. All sale agreements shall be prepared by Trustee's counsel with assistance from JLL.

2.2 Intentionally deleted.

2.3 Intentionally deleted.

2.4 Intentionally deleted.

2.5 Technical Matters. Trustee acknowledges that JLL is not an expert in and is not responsible for any legal, regulatory, tax, accounting, engineering, environmental or other technical matters, all of which shall be solely Trustee's responsibility. JLL shall, based on its professional expertise, assist Trustee in connection with such matters, including giving the Trustee recommendations as to experts to use for such matters and coordinating the work of such experts with the other parties working on the transaction, but in no event shall JLL have responsibility for the work of such experts.

#### ARTICLE 3. INDEMNIFICATION

JLL will defend (with counsel reasonably acceptable to Trustee), indemnify and hold harmless Trustee, Burr Ridge LLC and its affiliates, and each and all of their officers, directors, employees, partners and agents, from and against all third party claims, losses, liabilities and expenses, including reasonable attorneys' fees, expert witness fees and court costs ("Loss"), to the extent arising out of JLL's gross negligence or intentional misconduct in connection with this Agreement.

#### ARTICLE 4. COMPENSATION

JLL shall receive remuneration for its services in accordance with the terms of this Agreement and Schedule A.

#### ARTICLE 5. NOTICES

All notices, demands, consents and reports provided for in this Agreement shall be in writing and shall be given to Trustee or JLL at the address set forth below or at such other address as they individually may specify thereafter in writing:

TRUSTEE: Michael F. Thomson, Trustee  
c/o Peggy Hunt  
Dorsey & Whitney LLP  
111 S. Main, Suite 2100  
Salt Lake City, UT 84111

JLL: Jones Lang LaSalle  
200 East Randolph Dr.  
Chicago, IL 60601  
Attention: Grant Emerick

Jones Lang LaSalle  
111 S. Main St.  
Suite 300  
Salt Lake City, UT 84111  
Attention: Brian Anderson

with copies to: Jones Lang LaSalle  
200 East Randolph Drive  
Chicago, IL 60601  
Attention: Regional Counsel

Such notice or other communication shall be delivered by hand or by nationally recognized overnight courier service. For purposes of this Agreement, notices will be deemed to have been given upon receipt or refusal of receipt.

#### ARTICLE 6. GENERAL PROVISIONS

6.1 Confidentiality; Publicity. JLL shall keep confidential all non-public information obtained from Trustee relating to the Services, except as reasonably required in order to perform Services hereunder, for the term of this Agreement and for two (2) years after the expiration or termination of this Agreement. In addition, any and all data and studies created in connection with the Services shall belong to Trustee. Trustee agrees that JLL may publicize its role in any transaction Trustee enters into, provided JLL does not disclose any financial information regarding such transaction. JLL may use Trustee's name in a list of clients for marketing and promotional purposes.

6.2 Limited Liability. Neither party shall be liable to the other for, and each party hereby waives any and all rights to claim against the other, any special, indirect, incidental, consequential, punitive or exemplary damages in connection with this Agreement, including, but not limited to, lost profits, even if the party has knowledge of the possibility of such damages. In no event shall JLL's liability to Trustee for any transaction exceed the fees paid to JLL in connection with such transaction.

6.3 Miscellaneous. This Agreement, together with the Rider(s), Schedule(s) and Exhibits(s), if any, attached hereto, represents the complete and final understanding between JLL and Trustee with respect to the Services and may not be waived, amended, or modified by either party unless such waiver, amendment or modification is in writing and signed by both parties. If any provision of this Agreement is invalid under applicable law, such invalidity shall not affect the other provisions of this Agreement. This Agreement shall be governed by the laws of the state of Utah. This Agreement is binding upon the parties hereto and their respective successors and assigns; provided, however, this Agreement may not be assigned by either party except to any other entity that acquires all or substantially all of the business and employees of such party, and except that JLL may delegate its duties to a state-licensed affiliate. All disputes related to this Agreement are subject to the jurisdiction of the Bankruptcy Court, and JLL expressly consents to jurisdiction in the Bankruptcy Court.

6.4 Non-Discrimination. The parties hereto acknowledge that it is illegal to refuse to display, lease or sell to or from any person because of one's membership in a protected class, e.g., race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other protected class, and agree not to discriminate unlawfully against anyone in a protected class.

6.5 Survival. The provisions of Section 1.3, Articles 3, 4 and Sections 6.1, 6.2, 6.5, 6.6, 6.7, and 6.8 of this Agreement shall survive the expiration or termination of this Agreement.



6.6 Attorney's Fees; JURY WAIVER; Late Payments. If either party shall institute any action or proceeding against the other relating to the provisions of this Agreement, the unsuccessful party in the action or proceeding shall reimburse the prevailing party for all reasonable expenses and attorneys' fees and disbursements. THE PARTIES HEREBY WAIVE TRIAL BY JURY. Delinquent payments hereunder shall earn interest at the rate of one-and-a-half percent (1 ½%) per month from the date due until paid.

6.7 Intentionally omitted.

6.8 Counterparts; Electronic/Facsimile Signature. This Agreement 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 instrument. The parties agree that an electronic or facsimile signature shall be considered an original signature.

6.9 Authorization. The individual executing this Agreement personally certifies and warrants that he or she is duly authorized to sign this Agreement, and that by his or her execution hereof, this Agreement shall be legally binding and enforceable upon the entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL.

6.10 OFAC. Trustee represents and warrants that neither it nor any of its employees is a person or entity with whom U.S. entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order or other governmental action.

6.11 Trustee Liability Limited/Court Approval. The Trustee and his attorneys and agents shall have no personal liability under this Agreement. JLL expressly understands and agrees that any amounts owed under this Agreement shall be paid through Burr Ridge LLC. JLL acknowledges that sales of the Property may be, in the Trustee's sole discretion, subject to Bankruptcy Court approval, and in the event that the Bankruptcy Court does not approve a sale of Property, the Trustee and Burr Ridge LLC shall have no liability to JLL or any other party.

#### ARTICLE 7. ILLINOIS STATE-SPECIFIC PROVISIONS

7.1 Non-Discrimination. It is illegal for either Trustee or JLL to refuse to display or sell to any person because of one's membership in a protected class, e.g., race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, sexual orientation, unfavorable discharge from the military service, order of protection status or any other class protected by Article 3 of the Illinois Human Rights Act.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first written below.

Michael F. Thomson, Chapter 11 Trustee for **The Falls Event Center, LLC**,  
Case No. 18-25116

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**The Falls at Burr Ridge, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**JONES LANG LASALLE AMERICAS (ILLINOIS), LP**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
IL R.E. License #: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE A**

**JLL'S COMPENSATION**

II. Sale Transaction Fee

- Without a Cooperating Broker: Five percent (5%) of the Gross Proceeds
- With a Cooperating Broker: Six percent (6%) of the Gross Proceeds, to be shared equally between JLL and the cooperating broker.

For purposes of calculating the Sale Transaction Fee payable under this Agreement, the term "Gross Proceeds" shall mean the total fair market value of the gross consideration (including, without limitation, cash, notes, securities, property, obligations or mortgages assumed or taken subject to, and any other form of consideration) to be received by Burr Ridge LLC and/or its investors in connection with the Transaction (as defined below). Gross Proceeds shall include any portion of the purchase price placed in escrow or subject to a holdback as part of the Transaction, but shall not be adjusted by any fees, prorations or closing expenses. The Sale Transaction Fee will become due and payable by Trustee upon consummation of a Transaction, whether or not through the efforts of JLL, provided Trustee has entered into a letter of intent or definitive agreement for the Transaction during the term of this Agreement.

For purposes of this Agreement, the term "Transaction" shall include a direct or indirect transaction with respect to the Property or of the interests in any entity holding title to the Property, whether accomplished through a sale, merger, consolidation or otherwise; any direct or indirect transaction with respect to a partial ownership interest in the Property; or any capital investment structured as a financing, joint venture or any combination thereof. In no event, however, shall a Transaction be deemed to have occurred if the Transaction does not close for any reason; and in such case, JLL shall not be entitled to any Sale Transaction Fee.

**EXHIBIT 4**



## LISTING AGREEMENT

This AGREEMENT, dated as of the last date written below, by and between Michael F. Thomson, Chapter 11 Trustee (the “Trustee”) for The Falls Event Center, LLC (“Debtor TFEC” in Case No. 18-25116 (the “TFEC Case”) pending in the United States Bankruptcy Court for the District of Utah (the “Bankruptcy Court”), and JONES LANG LASALLE BROKERAGE, INC., (hereinafter “JLL”). In his capacity as the Chapter 11 Trustee for Debtor TFEC, the Trustee manages The Falls at Beaverton, LLC (“Beaverton LLC”).

### BACKGROUND

- A. Beaverton LLC owns real property located at 12655 Southwest Miliken Way, Beaverton, Oregon (the “Property”).
- B. The Trustee desires to engage JLL as its sole and exclusive sales agent for the Property.
- C. JLL desires to accept such employment and is engaged in the business of marketing properties.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### ARTICLE 1. TERM; TERMINATION

1.1 Bankruptcy Court Approval/Initial Term. This Agreement is subject to approval by the Bankruptcy Court. JLL's duties and responsibilities under this Agreement shall begin upon entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL, and shall end twelve (12) months thereafter, unless sooner terminated as provided herein.

1.2 Termination. Either party may, at its option and in its sole and absolute discretion, elect to terminate this Agreement upon sixty (60) days' prior written notice to the other party. To the extent not prohibited by law, this Agreement shall automatically be renewed on a month-to-month basis on its existing terms and conditions unless written notice to the contrary is given by either party not less than thirty (30) days prior to the end of a term.

### ARTICLE 2. SERVICES

2.1 Services. The Trustee hereby engages, subject to Bankruptcy Court approval, JLL as its exclusive broker for the purpose of selling the Property (the “Services”). JLL shall perform the Services in accordance with applicable professional standards. The Trustee shall refer all inquiries to JLL and conduct all negotiations through JLL (under the supervision, direction and control of Trustee), but JLL has no authority to obligate the Trustee or Beaverton LLC until expressly authorized in writing by the Trustee. Adam Taylor and Charlie Floberg of JLL, and, to the extent allowed by local law, Brian Anderson and Wick Udy of JLL (the “Project Team”) will perform the Services under this Agreement. JLL may cooperate with cooperating brokers, including representatives of JLL or its affiliates other than Project Team members (“JLL Non-Team Brokers”), in selling the Property. In such case, the JLL Non-Team Brokers shall be considered cooperating brokers for purposes of this Agreement. In the event that a cooperating broker shall procure a purchaser of the Property, and such party purchases the Property from Beaverton LLC through the Trustee, Beaverton LLC shall pay JLL and the cooperating broker the commissions computed in accordance with the rates set forth on Schedule A to this Agreement. In the event any Project Team member exclusively represents a prospective

party, such Project Team member will recuse himself or herself from representation of Trustee hereunder and will be considered a JLL Non-Team Broker for purposes of the applicable sale transaction, and the remaining Project Team members will continue to represent Trustee pursuant to the terms of this Agreement. Such recused Project Team member shall in all events maintain the confidentiality of Beaverton LLC and the Trustee's confidential information. All final business decisions shall be made solely by Trustee, and may be subject to approval by the Bankruptcy Court. All sale agreements shall be prepared by Trustee's counsel with assistance from JLL.

2.2 Intentionally deleted.

2.3 Intentionally deleted.

2.4 Intentionally deleted.

2.5 Technical Matters. Trustee acknowledges that JLL is not an expert in and is not responsible for any legal, regulatory, tax, accounting, engineering, environmental or other technical matters, all of which shall be solely Trustee's responsibility. JLL shall, based on its professional expertise, assist Trustee in connection with such matters, including giving the Trustee recommendations as to experts to use for such matters and coordinating the work of such experts with the other parties working on the transaction, but in no event shall JLL have responsibility for the work of such experts.

#### ARTICLE 3. INDEMNIFICATION

JLL will defend (with counsel reasonably acceptable to Trustee), indemnify and hold harmless Trustee, Beaverton LLC and its affiliates, and each and all of their officers, directors, employees, partners and agents, from and against all third party claims, losses, liabilities and expenses, including reasonable attorneys' fees, expert witness fees and court costs ("**Loss**"), to the extent arising out of JLL's gross negligence or intentional misconduct in connection with this Agreement.

#### ARTICLE 4. COMPENSATION

JLL shall receive remuneration for its services in accordance with the terms of this Agreement and Schedule A.

#### ARTICLE 5. NOTICES

All notices, demands, consents and reports provided for in this Agreement shall be in writing and shall be given to Trustee or JLL at the address set forth below or at such other address as they individually may specify thereafter in writing:

TRUSTEE: Michael F. Thomson, Trustee  
c/o Peggy Hunt  
Dorsey & Whitney LLP  
111 S. Main, Suite 2100  
Salt Lake City, UT 84111

JLL: Jones Lang LaSalle  
111 S. Main St.  
Suite 300  
Salt Lake City, UT 84111  
Attention: Brian Anderson

Jones Lang LaSalle  
1120 Couch Street  
Portland, OR 97209  
Attention: Buzz Ellis

with copies to: Jones Lang LaSalle  
200 East Randolph Drive  
Chicago, IL 60601  
Attention: Regional Counsel

Such notice or other communication shall be delivered by hand or by nationally recognized overnight courier service. For purposes of this Agreement, notices will be deemed to have been given upon receipt or refusal of receipt.

#### ARTICLE 6. GENERAL PROVISIONS

6.1 Confidentiality; Publicity. JLL shall keep confidential all non-public information obtained from Trustee relating to the Services, except as reasonably required in order to perform Services hereunder, for the term of this Agreement and for two (2) years after the expiration or termination of this Agreement. In addition, any and all data and studies created in connection with the Services shall belong to Trustee. Trustee agrees that JLL may publicize its role in any transaction Trustee enters into, provided JLL does not disclose any financial information regarding such transaction. JLL may use Trustee's name in a list of clients for marketing and promotional purposes.

6.2 Limited Liability. Neither party shall be liable to the other for, and each party hereby waives any and all rights to claim against the other, any special, indirect, incidental, consequential, punitive or exemplary damages in connection with this Agreement, including, but not limited to, lost profits, even if the party has knowledge of the possibility of such damages. In no event shall JLL's liability to Trustee for any transaction exceed the fees paid to JLL in connection with such transaction.

6.3 Miscellaneous. This Agreement, together with the Rider(s), Schedule(s) and Exhibits(s), if any, attached hereto, represents the complete and final understanding between JLL and Trustee with respect to the Services and may not be waived, amended, or modified by either party unless such waiver, amendment or modification is in writing and signed by both parties. If any provision of this Agreement is invalid under applicable law, such invalidity shall not affect the other provisions of this Agreement. This Agreement shall be governed by the laws of the state of Utah. This Agreement is binding upon the parties hereto and their respective successors and assigns; provided, however, this Agreement may not be assigned by either party except to any other entity that acquires all or substantially all of the business and employees of such party, and except that JLL may delegate its duties to a state-licensed affiliate. All disputes related to this Agreement are subject to the jurisdiction of the Bankruptcy Court, and JLL expressly consents to jurisdiction in the Bankruptcy Court.

6.4 Non-Discrimination. The parties hereto acknowledge that it is illegal to refuse to display, lease or sell to or from any person because of one's membership in a protected class, e.g., race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other protected class, and agree not to discriminate unlawfully against anyone in a protected class.

6.5 Survival. The provisions of Section 1.3, Articles 3, 4 and Sections 6.1, 6.2, 6.5, 6.6, 6.7, and 6.8 of this Agreement shall survive the expiration or termination of this Agreement.

6.6 Attorney's Fees; JURY WAIVER; Late Payments. If either party shall institute any action or proceeding against the other relating to the provisions of this Agreement, the unsuccessful party in the action or proceeding shall reimburse the prevailing party for all reasonable expenses and attorneys' fees and disbursements. THE PARTIES HEREBY WAIVE TRIAL BY JURY. Delinquent payments hereunder shall earn interest at the rate of one-and-a-half percent (1 ½%) per month from the date due until paid.

6.7 Intentionally omitted.

6.8 Counterparts; Electronic/Facsimile Signature. This Agreement 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 instrument. The parties agree that an electronic or facsimile signature shall be considered an original signature.

6.9 Authorization. The individual executing this Agreement personally certifies and warrants that he or she is duly authorized to sign this Agreement, and that by his or her execution hereof, this Agreement shall be legally binding and enforceable upon the entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL.

6.10 OFAC. Trustee represents and warrants that neither it nor any of its employees is a person or entity with whom U.S. entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order or other governmental action.

6.11 Trustee Liability Limited/Court Approval. The Trustee and his attorneys and agents shall have no personal liability under this Agreement. JLL expressly understands and agrees that any amounts owed under this Agreement shall be paid through Beaverton LLC. JLL acknowledges that sales of the Property may be, in the Trustee's sole discretion, subject to Bankruptcy Court approval, and in the event that the Bankruptcy Court does not approve a sale of Property, the Trustee and Beaverton LLC shall have no liability to JLL or any other party.

#### ARTICLE 7. OREGON STATE-SPECIFIC PROVISIONS

7.1 Legal Description of Property. The legal description of the Property is set forth in Exhibit I attached hereto.

7.2 Disclosed Limited Agency. In the event a JLL Non-Team Broker represents a potential buyer for the Property, Trustee may, in his sole discretion, execute and deliver to JLL the Disclosed Limited Agency Agreement attached hereto as Exhibit II.

7.3 Agency Disclosure Pamphlet. Trustee acknowledges that it has received the Initial Agency Disclosure Pamphlet required by ORS 696.820, which pamphlet is hereby attached hereto as Exhibit III.

[Signature page follows]



IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first written below.

Michael F. Thomson, Chapter 11 Trustee for **The Falls Event Center, LLC**,  
Case No. 18-25116

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**The Falls at Beaverton, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**JONES LANG LASALLE BROKERAGE, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
OR R.E. License #: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE A**

**JLL'S COMPENSATION**

II. Sale Transaction Fee

- Without a Cooperating Broker: Five percent (5%) of the Gross Proceeds
- With a Cooperating Broker: Six percent (6%) of the Gross Proceeds, to be shared equally between JLL and the cooperating broker.

For purposes of calculating the Sale Transaction Fee payable under this Agreement, the term "Gross Proceeds" shall mean the total fair market value of the gross consideration (including, without limitation, cash, notes, securities, property, obligations or mortgages assumed or taken subject to, and any other form of consideration) to be received by Beaverton LLC and/or its investors in connection with the Transaction (as defined below). Gross Proceeds shall include any portion of the purchase price placed in escrow or subject to a holdback as part of the Transaction, but shall not be adjusted by any fees, prorations or closing expenses. The Sale Transaction Fee will become due and payable by Trustee upon consummation of a Transaction, whether or not through the efforts of JLL, provided Trustee has entered into a letter of intent or definitive agreement for the Transaction during the term of this Agreement.

For purposes of this Agreement, the term "Transaction" shall include a direct or indirect transaction with respect to the Property or of the interests in any entity holding title to the Property, whether accomplished through a sale, merger, consolidation or otherwise; any direct or indirect transaction with respect to a partial ownership interest in the Property; or any capital investment structured as a financing, joint venture or any combination thereof. In no event, however, shall a Transaction be deemed to have occurred if the Transaction does not close for any reason; and in such case, JLL shall not be entitled to any Sale Transaction Fee.

**EXHIBIT I**

**LEGAL DESCRIPTION OF OR PROPERTY**

**EXHIBIT II**

**DISCLOSED LIMITED AGENCY AGREEMENT**

Property Address \_\_\_\_\_  
Addendum to Listing Agreement Dated \_\_\_\_\_  
Real Estate Firm \_\_\_\_\_

**The Parties to this Disclosed Limited Agency Agreement are:**

Listing Agent (print) \_\_\_\_\_  
Listing Agent's Principal Broker (print) \_\_\_\_\_  
Trustee (print) \_\_\_\_\_  
Trustee (print) \_\_\_\_\_

The Parties to this Agreement understand that Oregon law allows a single real estate agent to act as a disclosed limited agent -- to represent both the Trustee and the buyer in the same real estate transaction, or multiple tenants who want to purchase the same property. It is also understood that when different agents associated with the same principal broker (the broker who directly supervises the other agents) establish agency relationships with the buyer and Trustee in a real estate transaction, the agents' principal broker shall be the only broker acting as a disclosed limited agent representing both Trustee and buyer. The other agents shall continue to represent only the party with whom they have an established agency relationship, unless all parties agree otherwise in writing.

In consideration of the above understanding, and the mutual promises and benefits exchanged here and in the Listing Agreement, the Parties now agree as follows:

1. Trustee acknowledge they it has received the initial agency disclosure pamphlet required by ORS 696.820 and have read and discussed with the Listing Agent that part of the pamphlet entitled "Duties and Responsibilities of an Agent Who Represents More than One Party to A Transaction." The initial agency disclosure pamphlet is hereby incorporated into this Disclosed Limited Agency Agreement by reference.
2. Trustee, having discussed with the Listing Agent the duties and responsibilities of an agent who represents more than one party to a transaction, consent and agree as follows:
  - (A) The Listing Agent and the Listing Agent's Principal Broker, in addition to representing Trustee, may represent one or more tenants in a transaction involving the listed property;
  - (B) In a transaction involving the listed property where the buyer is represented by an agent who works in the same real estate business as the Listing Agent and who is supervised by the Listing Agent's Principal Broker, the Principal Broker may represent both Trustee and Buyer. In such a situation, the Listing Agent will continue to represent only the Trustee and the other agent will represent only the Buyer, consistent with the applicable duties and responsibilities as set out in the initial agency disclosure pamphlet; and
  - (C) In all other cases, the Listing Agent and the Listing Agent's Principal Broker shall represent Trustee exclusively.

Trustee signature \_\_\_\_\_  
Date \_\_\_\_\_

Listing Agent signature \_\_\_\_\_  
Date \_\_\_\_\_

(On their own and on behalf of Principal Broker)  
Broker initial and review date \_\_\_\_\_

**EXHIBIT III**

**INITIAL AGENCY DISCLOSURE PAMPHLET**

*This pamphlet describes agency relationships and the duties and responsibilities of real estate licensees in Oregon. This pamphlet is informational only and neither the pamphlet nor its delivery to you may be construed to be evidence of intent to create an agency relationship.*

**Real Estate Agency Relationships**

An "agency" relationship is a voluntary legal relationship in which a real estate licensee (the "agent") agrees to act on behalf of a buyer or a seller (the "client") in a real estate transaction. Oregon law provides for three types of agency relationships between real estate agents and their clients:

**Seller's Agent** -- Represents the seller only;

**Buyer's Agent** -- Represents the buyer only;

**Disclosed Limited Agent** -- Represents both the buyer and seller, or multiple buyers who want to purchase the same property. This can be done only with the written permission of both clients.

*The actual agency relationships between the seller, buyer and their agents in a real estate transaction must be acknowledged at the time an offer to purchase is made. Please read this pamphlet carefully before entering into an agency relationship with a real estate agent.*

**Duties and Responsibilities of an Agent Who Represents Only the Seller or Only the Buyer**

Under a written listing agreement to sell property, an agent represents only the seller unless the seller agrees in writing to allow the agent to also represent the buyer. An agent who agrees to represent a buyer acts only as the buyer's agent unless the buyer agrees in writing to allow the agent to also represent the seller. An agent who represents only the seller or only the buyer owes the following affirmative duties to their client, other parties and their agents involved in a real estate transaction:

1. To exercise reasonable care and diligence;
2. To deal honestly and in good faith;
3. To present all written offers, notices and other communications in a timely manner whether or not the seller's property is subject to a contract for sale or the buyer is already a party to a contract to purchase;
4. To disclose material facts known by the agent and not apparent or readily ascertainable to a party;
5. To account in a timely manner for money and property received from or on behalf of the client;
6. To be loyal to their client by not taking action that is adverse or detrimental to the client's interest in a transaction;
7. To disclose in a timely manner to the client any conflict of interest, existing or contemplated;
8. To advise the client to seek expert advice on matters related to the transactions that are beyond the agent's expertise;
9. To maintain confidential information from or about the client except under subpoena or court order, even after termination of the agency relationship; and
10. When representing a seller, to make a continuous, good faith effort to find a buyer for the property, except that a seller's agent is not required to seek additional offers to purchase the property while the property is subject to a contract for sale. When representing a buyer, to make a continuous, good faith effort to find property for the buyer, except that a buyer's agent is not required to seek additional properties for the buyer while the buyer is subject to a contract for purchase or to show properties for which there is no written agreement to pay compensation to the buyer's agent.

None of these affirmative duties of an agent may be waived, except #10, which can only be waived by written agreement between client and agent.

Under Oregon law, a seller's agent may show properties owned by another seller to a prospective buyer and may list competing properties for sale without breaching any affirmative duty to the seller. Similarly, a buyer's agent may show

properties in which the buyer is interested to other prospective buyers without breaching any affirmative duty to the buyer.

Unless agreed to in writing, an agent has no duty to investigate matters that are outside the scope of the agent's expertise.

### **Duties and Responsibilities of an Agent Who Represents More than One Client in a Transaction**

One agent may represent both the seller and the buyer in the same transaction, or multiple buyers who want to purchase the same property only under a written "Disclosed Limited Agency" agreement, signed by the seller, buyer(s) and their agent.

When different agents associated with the same real estate firm establish agency relationships with different parties to the same transaction, only the principal broker (the broker who supervises the other agents) will act as a Disclosed Limited Agent for both the buyer and seller. The other agents continue to represent only the party with whom the agent already has an established agency relationship unless all parties agree otherwise in writing. The supervising principal broker and the agents representing either the seller or the buyer have the following duties to their clients:

1. To disclose a conflict of interest in writing to all parties;
2. To take no action that is adverse or detrimental to either party's interest in the transaction; and
3. To obey the lawful instruction of both parties.

An agent acting under a Disclosed Limited Agency agreement has the same duties to the client as when representing only a seller or only a buyer, except that the agent may not, without written permission, disclose any of the following:

1. That the seller will accept a lower price or less favorable terms than the listing price or terms;
2. That the buyer will pay a greater price or more favorable terms than the offering price or terms; or
3. In transactions involving one-to-four residential units only, information regarding the real property transaction including, but not limited to, price, terms, financial qualifications or motivation to buy or sell.

No matter whom they represent, an agent must disclose information the agent knows or should know that failure to disclose would constitute fraudulent misrepresentation. Unless agreed to in writing, an agent acting under a Disclosed Limited Agency agreement has no duty to investigate matters that are outside the scope of the agent's expertise.

*You are encouraged to discuss the above information with the agent delivering this pamphlet to you. If you intend for that agent, or any other Oregon real estate agent, to represent you as a Seller's Agent, Buyer's Agent, or Disclosed Limited Agent, you should have a specific discussion with him/her about the nature and scope of the agency relationship. Whether you are a buyer or seller, you cannot make a licensee your agent without their knowledge and consent, and an agent cannot make you their client without your knowledge and consent.*

**EXHIBIT 5**



## LISTING AGREEMENT

This AGREEMENT, dated as of the last date written below, by and between Michael F. Thomson, Chapter 11 Trustee (the “Trustee”) for The Falls Event Center, LLC (“Debtor TFEC” in Case No. 18-25116 (the “TFEC Case”) pending in the United States Bankruptcy Court for the District of Utah (the “Bankruptcy Court”), and JONES LANG LASALLE BROKERAGE, INC., (hereinafter “JLL”). In his capacity as the Chapter 11 Trustee for Debtor TFEC, the Trustee manages The Falls at Stone Oak Parkway, LLC (“Stone Oak LLC”).

### BACKGROUND

- A. Stone Oak LLC owns real property located at the South side of Stone Oak Parkway West of Highway 281, San Antonio, Texas 78258 (the “Property”).
- B. The Trustee desires to engage JLL as its sole and exclusive sales agent for the Property.
- C. JLL desires to accept such employment and is engaged in the business of marketing properties.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### ARTICLE 1. TERM; TERMINATION

1.1 Bankruptcy Court Approval/Initial Term. This Agreement is subject to approval by the Bankruptcy Court. JLL's duties and responsibilities under this Agreement shall begin upon entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL, and shall end twelve (12) months thereafter, unless sooner terminated as provided herein.

1.2 Termination. Either party may, at its option and in its sole and absolute discretion, elect to terminate this Agreement upon sixty (60) days' prior written notice to the other party. To the extent not prohibited by law, this Agreement shall automatically be renewed on a month-to-month basis on its existing terms and conditions unless written notice to the contrary is given by either party not less than thirty (30) days prior to the end of a term.

### ARTICLE 2. SERVICES

2.1 Services. The Trustee hereby engages, subject to Bankruptcy Court approval, JLL as its exclusive broker for the purpose of selling the Property (the “Services”). JLL shall perform the Services in accordance with applicable professional standards. The Trustee shall refer all inquiries to JLL and conduct all negotiations through JLL (under the supervision, direction and control of Trustee), but JLL has no authority to obligate the Trustee or Stone Oak LLC until expressly authorized in writing by the Trustee. Tyler West of JLL and, to the extent allowed by local law, Brian Anderson and Wick Udy of JLL (the “Project Team”) will perform the Services under this Agreement. JLL may cooperate with cooperating brokers, including representatives of JLL or its affiliates other than Project Team members (“JLL Non-Team Brokers”), in selling the Property. In such case, the JLL Non-Team Brokers shall be considered cooperating brokers for purposes of this Agreement. In the event that a cooperating broker shall procure a purchaser of the Property, and such party purchases the Property from Stone Oak LLC through the Trustee, Stone Oak LLC shall pay JLL and the cooperating broker the commissions computed in accordance with the rates set forth on Schedule A to this Agreement. In the event any Project Team member exclusively represents a prospective party, such



Project Team member will recuse himself or herself from representation of Trustee hereunder and will be considered a JLL Non-Team Broker for purposes of the applicable sale transaction, and the remaining Project Team members will continue to represent Trustee pursuant to the terms of this Agreement. Such recused Project Team member shall in all events maintain the confidentiality of Stone Oak LLC and the Trustee's confidential information. All final business decisions shall be made solely by Trustee, and may be subject to approval by the Bankruptcy Court. All sale agreements shall be prepared by Trustee's counsel with assistance from JLL.

2.2 Intentionally deleted.

2.3 Intentionally deleted.

2.4 Intentionally deleted.

2.5 Technical Matters. Trustee acknowledges that JLL is not an expert in and is not responsible for any legal, regulatory, tax, accounting, engineering, environmental or other technical matters, all of which shall be solely Trustee's responsibility. JLL shall, based on its professional expertise, assist Trustee in connection with such matters, including giving the Trustee recommendations as to experts to use for such matters and coordinating the work of such experts with the other parties working on the transaction, but in no event shall JLL have responsibility for the work of such experts.

#### ARTICLE 3. INDEMNIFICATION

JLL will defend (with counsel reasonably acceptable to Trustee), indemnify and hold harmless Trustee, Stone Oak LLC and its affiliates, and each and all of their officers, directors, employees, partners and agents, from and against all third party claims, losses, liabilities and expenses, including reasonable attorneys' fees, expert witness fees and court costs ("**Loss**"), to the extent arising out of JLL's gross negligence or intentional misconduct in connection with this Agreement.

#### ARTICLE 4. COMPENSATION

JLL shall receive remuneration for its services in accordance with the terms of this Agreement and Schedule A.

#### ARTICLE 5. NOTICES

All notices, demands, consents and reports provided for in this Agreement shall be in writing and shall be given to Trustee or JLL at the address set forth below or at such other address as they individually may specify thereafter in writing:

TRUSTEE: Michael F. Thomson, Trustee  
c/o Peggy Hunt  
Dorsey & Whitney LLP  
111 S. Main, Suite 2100  
Salt Lake City, UT 84111

JLL: Jones Lang LaSalle  
8343 Douglas Ave Ste 100  
Dallas, TX 75225  
Attention: Brad Selner

Jones Lang LaSalle  
111 S. Main St.  
Suite 300  
Salt Lake City, UT 84111  
Attention: Brian Anderson

with copies to: Jones Lang LaSalle  
200 East Randolph Drive  
Chicago, IL 60601  
Attention: Regional Counsel

Such notice or other communication shall be delivered by hand or by nationally recognized overnight courier service. For purposes of this Agreement, notices will be deemed to have been given upon receipt or refusal of receipt.

#### ARTICLE 6. GENERAL PROVISIONS

6.1 Confidentiality; Publicity. JLL shall keep confidential all non-public information obtained from Trustee relating to the Services, except as reasonably required in order to perform Services hereunder, for the term of this Agreement and for two (2) years after the expiration or termination of this Agreement. In addition, any and all data and studies created in connection with the Services shall belong to Trustee. Trustee agrees that JLL may publicize its role in any transaction Trustee enters into, provided JLL does not disclose any financial information regarding such transaction. JLL may use Trustee's name in a list of clients for marketing and promotional purposes.

6.2 Limited Liability. Neither party shall be liable to the other for, and each party hereby waives any and all rights to claim against the other, any special, indirect, incidental, consequential, punitive or exemplary damages in connection with this Agreement, including, but not limited to, lost profits, even if the party has knowledge of the possibility of such damages. In no event shall JLL's liability to Trustee for any transaction exceed the fees paid to JLL in connection with such transaction.

6.3 Miscellaneous. This Agreement, together with the Rider(s), Schedule(s) and Exhibits(s), if any, attached hereto, represents the complete and final understanding between JLL and Trustee with respect to the Services and may not be waived, amended, or modified by either party unless such waiver, amendment or modification is in writing and signed by both parties. If any provision of this Agreement is invalid under applicable law, such invalidity shall not affect the other provisions of this Agreement. This Agreement shall be governed by the laws of the state of Utah. This Agreement is binding upon the parties hereto and their respective successors and assigns; provided, however, this Agreement may not be assigned by either party except to any other entity that acquires all or substantially all of the business and employees of such party, and except that JLL may delegate its duties to a state-licensed affiliate. All disputes related to this Agreement are subject to the jurisdiction of the Bankruptcy Court, and JLL expressly consents to jurisdiction in the Bankruptcy Court.

6.4 Non-Discrimination. The parties hereto acknowledge that it is illegal to refuse to display, lease or sell to or from any person because of one's membership in a protected class, e.g., race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other protected class, and agree not to discriminate unlawfully against anyone in a protected class.

6.5 Survival. The provisions of Section 1.3, Articles 3, 4 and Sections 6.1, 6.2, 6.5, 6.6, 6.7, and 6.8 of this Agreement shall survive the expiration or termination of this Agreement.

6.6 Attorney's Fees; JURY WAIVER; Late Payments. If either party shall institute any action or proceeding against the other relating to the provisions of this Agreement, the unsuccessful party in the action or proceeding shall reimburse the prevailing party for all reasonable expenses and attorneys' fees and disbursements. THE PARTIES HEREBY WAIVE TRIAL BY JURY. Delinquent payments hereunder shall earn interest at the rate of one-and-a-half percent (1 ½%) per month from the date due until paid.

6.7 Intentionally omitted.

6.8 Counterparts; Electronic/Facsimile Signature. This Agreement 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 instrument. The parties agree that an electronic or facsimile signature shall be considered an original signature.

6.9 Authorization. The individual executing this Agreement personally certifies and warrants that he or she is duly authorized to sign this Agreement, and that by his or her execution hereof, this Agreement shall be legally binding and enforceable upon the entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL.

6.10 OFAC. Trustee represents and warrants that neither it nor any of its employees is a person or entity with whom U.S. entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order or other governmental action.

6.11 Trustee Liability Limited/Court Approval. The Trustee and his attorneys and agents shall have no personal liability under this Agreement. JLL expressly understands and agrees that any amounts owed under this Agreement shall be paid through Stone Oak LLC. JLL acknowledges that sales of the Property may be, in the Trustee's sole discretion, subject to Bankruptcy Court approval, and in the event that the Bankruptcy Court does not approve a sale of Property, the Trustee and Stone Oak LLC shall have no liability to JLL or any other party.

#### ARTICLE 7. TEXAS STATE-SPECIFIC PROVISIONS

7.1 Governing Law. This Agreement shall be construed under and in accordance with the laws of the State of Texas. Venue for any action in connection herewith shall be in Bexar County, Texas.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first written below.

Michael F. Thomson, Chapter 11 Trustee for **The Falls Event Center, LLC**,  
Case No. 18-25116

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**The Falls at Stone Oak Parkway, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**JONES LANG LASALLE BROKERAGE, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
TX R.E. License #: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE A**

**JLL'S COMPENSATION**

II. Sale Transaction Fee

- Without a Cooperating Broker: Five percent (5%) of the Gross Proceeds
- With a Cooperating Broker: Six percent (6%) of the Gross Proceeds, to be shared equally between JLL and the cooperating broker.

For purposes of calculating the Sale Transaction Fee payable under this Agreement, the term "Gross Proceeds" shall mean the total fair market value of the gross consideration (including, without limitation, cash, notes, securities, property, obligations or mortgages assumed or taken subject to, and any other form of consideration) to be received by Stone Oak LLC and/or its investors in connection with the Transaction (as defined below). Gross Proceeds shall include any portion of the purchase price placed in escrow or subject to a holdback as part of the Transaction, but shall not be adjusted by any fees, prorations or closing expenses. The Sale Transaction Fee will become due and payable by Trustee upon consummation of a Transaction, whether or not through the efforts of JLL, provided Trustee has entered into a letter of intent or definitive agreement for the Transaction during the term of this Agreement.

For purposes of this Agreement, the term "Transaction" shall include a direct or indirect transaction with respect to the Property or of the interests in any entity holding title to the Property, whether accomplished through a sale, merger, consolidation or otherwise; any direct or indirect transaction with respect to a partial ownership interest in the Property; or any capital investment structured as a financing, joint venture or any combination thereof. In no event, however, shall a Transaction be deemed to have occurred if the Transaction does not close for any reason; and in such case, JLL shall not be entitled to any Sale Transaction Fee.

**EXHIBIT I**

**LEGAL DESCRIPTION OF PROPERTY**

The legal description of the Property is as follows: **[INSERT LEGAL DESCRIPTION OF PROPERTY]**.

**EXHIBIT 6**



## LISTING AGREEMENT

This AGREEMENT, dated as of the last date written below, by and between Michael F. Thomson, Chapter 11 Trustee (the “Trustee”) for The Falls Event Center, LLC (“Debtor TFEC” in Case No. 18-25116 (the “TFEC Case”) pending in the United States Bankruptcy Court for the District of Utah (the “Bankruptcy Court”), and JONES LANG LASALLE BROKERAGE, INC., (hereinafter “JLL”). In his capacity as the Chapter 11 Trustee for Debtor TFEC, the Trustee manages The Falls at Cutten Road, LLC (“Cutten Road LLC”).

### BACKGROUND

- A. Cutten Road LLC owns real property located at 13455 Cutten Road, Houston, Texas 77069 (the “Property”).
- B. The Trustee desires to engage JLL as its sole and exclusive sales agent for the Property.
- C. JLL desires to accept such employment and is engaged in the business of marketing properties.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### ARTICLE 1. TERM; TERMINATION

1.1 Bankruptcy Court Approval/Initial Term. This Agreement is subject to approval by the Bankruptcy Court. JLL's duties and responsibilities under this Agreement shall begin upon entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL, and shall end twelve (12) months thereafter, unless sooner terminated as provided herein.

1.2 Termination. Either party may, at its option and in its sole and absolute discretion, elect to terminate this Agreement upon sixty (60) days' prior written notice to the other party. To the extent not prohibited by law, this Agreement shall automatically be renewed on a month-to-month basis on its existing terms and conditions unless written notice to the contrary is given by either party not less than thirty (30) days prior to the end of a term.

### ARTICLE 2. SERVICES

2.1 Services. The Trustee hereby engages, subject to Bankruptcy Court approval, JLL as its exclusive broker for the purpose of selling the Property (the “Services”). JLL shall perform the Services in accordance with applicable professional standards. The Trustee shall refer all inquiries to JLL and conduct all negotiations through JLL (under the supervision, direction and control of Trustee), but JLL has no authority to obligate the Trustee or Cutten Road LLC until expressly authorized in writing by the Trustee. Elizabeth Clampitt of JLL, and, to the extent allowed by local law, Brian Anderson and Wick Udy of JLL (the “Project Team”) will perform the Services under this Agreement. JLL may cooperate with cooperating brokers, including representatives of JLL or its affiliates other than Project Team members (“JLL Non-Team Brokers”), in selling the Property. In such case, the JLL Non-Team Brokers shall be considered cooperating brokers for purposes of this Agreement. In the event that a cooperating broker shall procure a purchaser of the Property, and such party purchases the Property from Cutten Road LLC through the Trustee, Cutten Road LLC shall pay JLL and the cooperating broker the commissions computed in accordance with the rates set forth on Schedule A to this Agreement. In the event any Project Team member exclusively represents a



prospective party, such Project Team member will recuse himself or herself from representation of Trustee hereunder and will be considered a JLL Non-Team Broker for purposes of the applicable sale transaction, and the remaining Project Team members will continue to represent Trustee pursuant to the terms of this Agreement. Such recused Project Team member shall in all events maintain the confidentiality of Cutten Road LLC and the Trustee's confidential information. All final business decisions shall be made solely by Trustee, and may be subject to approval by the Bankruptcy Court. All sale agreements shall be prepared by Trustee's counsel with assistance from JLL.

2.2 Intentionally deleted.

2.3 Intentionally deleted.

2.4 Intentionally deleted.

2.5 Technical Matters. Trustee acknowledges that JLL is not an expert in and is not responsible for any legal, regulatory, tax, accounting, engineering, environmental or other technical matters, all of which shall be solely Trustee's responsibility. JLL shall, based on its professional expertise, assist Trustee in connection with such matters, including giving the Trustee recommendations as to experts to use for such matters and coordinating the work of such experts with the other parties working on the transaction, but in no event shall JLL have responsibility for the work of such experts.

#### ARTICLE 3. INDEMNIFICATION

JLL will defend (with counsel reasonably acceptable to Trustee), indemnify and hold harmless Trustee, Cutten Road LLC and its affiliates, and each and all of their officers, directors, employees, partners and agents, from and against all third party claims, losses, liabilities and expenses, including reasonable attorneys' fees, expert witness fees and court costs ("Loss"), to the extent arising out of JLL's gross negligence or intentional misconduct in connection with this Agreement.

#### ARTICLE 4. COMPENSATION

JLL shall receive remuneration for its services in accordance with the terms of this Agreement and Schedule A.

#### ARTICLE 5. NOTICES

All notices, demands, consents and reports provided for in this Agreement shall be in writing and shall be given to Trustee or JLL at the address set forth below or at such other address as they individually may specify thereafter in writing:

TRUSTEE: Michael F. Thomson, Trustee  
c/o Peggy Hunt  
Dorsey & Whitney LLP  
111 S. Main, Suite 2100  
Salt Lake City, UT 84111

JLL: Jones Lang LaSalle  
8343 Douglas Ave Ste 100  
Dallas, TX 75225  
Attention: Brad Selner

Jones Lang LaSalle  
111 S. Main St.  
Suite 300  
Salt Lake City, UT 84111  
Attention: Brian Anderson

with copies to: Jones Lang LaSalle  
200 East Randolph Drive  
Chicago, IL 60601  
Attention: General Counsel

Such notice or other communication shall be delivered by hand or by nationally recognized overnight courier service. For purposes of this Agreement, notices will be deemed to have been given upon receipt or refusal of receipt.

#### ARTICLE 6. GENERAL PROVISIONS

6.1 Confidentiality; Publicity. JLL shall keep confidential all non-public information obtained from Trustee relating to the Services, except as reasonably required in order to perform Services hereunder, for the term of this Agreement and for two (2) years after the expiration or termination of this Agreement. In addition, any and all data and studies created in connection with the Services shall belong to Trustee. Trustee agrees that JLL may publicize its role in any transaction Trustee enters into, provided JLL does not disclose any financial information regarding such transaction. JLL may use Trustee's name in a list of clients for marketing and promotional purposes.

6.2 Limited Liability. Neither party shall be liable to the other for, and each party hereby waives any and all rights to claim against the other, any special, indirect, incidental, consequential, punitive or exemplary damages in connection with this Agreement, including, but not limited to, lost profits, even if the party has knowledge of the possibility of such damages. In no event shall JLL's liability to Trustee for any transaction exceed the fees paid to JLL in connection with such transaction.

6.3 Miscellaneous. This Agreement, together with the Rider(s), Schedule(s) and Exhibits(s), if any, attached hereto, represents the complete and final understanding between JLL and Trustee with respect to the Services and may not be waived, amended, or modified by either party unless such waiver, amendment or modification is in writing and signed by both parties. If any provision of this Agreement is invalid under applicable law, such invalidity shall not affect the other provisions of this Agreement. This Agreement shall be governed by the laws of the state of Utah. This Agreement is binding upon the parties hereto and their respective successors and assigns; provided, however, this Agreement may not be assigned by either party except to any other entity that acquires all or substantially all of the business and employees of such party, and except that JLL may delegate its duties to a state-licensed affiliate. All disputes related to this Agreement are subject to the jurisdiction of the Bankruptcy Court, and JLL expressly consents to jurisdiction in the Bankruptcy Court.

6.4 Non-Discrimination. The parties hereto acknowledge that it is illegal to refuse to display, lease or sell to or from any person because of one's membership in a protected class, e.g., race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other protected class, and agree not to discriminate unlawfully against anyone in a protected class.

6.5 Survival. The provisions of Section 1.3, Articles 3, 4 and Sections 6.1, 6.2, 6.5, 6.6, 6.7, and 6.8 of this Agreement shall survive the expiration or termination of this Agreement.

6.6 Attorney's Fees; JURY WAIVER; Late Payments. If either party shall institute any action or proceeding against the other relating to the provisions of this Agreement, the unsuccessful party in the action or proceeding shall reimburse the prevailing party for all reasonable expenses and attorneys' fees and disbursements. THE PARTIES HEREBY WAIVE TRIAL BY JURY. Delinquent payments hereunder shall earn interest at the rate of one-and-a-half percent (1 ½%) per month from the date due until paid.

6.7 Intentionally omitted.

6.8 Counterparts; Electronic/Facsimile Signature. This Agreement 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 instrument. The parties agree that an electronic or facsimile signature shall be considered an original signature.

6.9 Authorization. The individual executing this Agreement personally certifies and warrants that he or she is duly authorized to sign this Agreement, and that by his or her execution hereof, this Agreement shall be legally binding and enforceable upon the entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL.

6.10 OFAC. Trustee represents and warrants that neither it nor any of its employees is a person or entity with whom U.S. entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order or other governmental action.

6.11 Trustee Liability Limited/Court Approval. The Trustee and his attorneys and agents shall have no personal liability under this Agreement. JLL expressly understands and agrees that any amounts owed under this Agreement shall be paid through Cutten Road LLC. JLL acknowledges that sales of the Property may be, in the Trustee's sole discretion, subject to Bankruptcy Court approval, and in the event that the Bankruptcy Court does not approve a sale of Property, the Trustee and Cutten Road LLC shall have no liability to JLL or any other party.

#### ARTICLE 7. TEXAS STATE-SPECIFIC PROVISIONS

7.1 Governing Law. This Agreement shall be construed under and in accordance with the laws of the State of Texas. Venue for any action in connection herewith shall be in Harris County, Texas.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first written below.

Michael F. Thomson, Chapter 11 Trustee for **The Falls Event Center, LLC**,  
Case No. 18-25116

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**The Falls at Cutten Road, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**JONES LANG LASALLE BROKERAGE, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
TX R.E. License #: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE A**

**JLL'S COMPENSATION**

II. Sale Transaction Fee

- Without a Cooperating Broker: Five percent (5%) of the Gross Proceeds
- With a Cooperating Broker: Six percent (6%) of the Gross Proceeds, to be shared equally between JLL and the cooperating broker.

For purposes of calculating the Sale Transaction Fee payable under this Agreement, the term "Gross Proceeds" shall mean the total fair market value of the gross consideration (including, without limitation, cash, notes, securities, property, obligations or mortgages assumed or taken subject to, and any other form of consideration) to be received by Cutten Road LLC and/or its investors in connection with the Transaction (as defined below). Gross Proceeds shall include any portion of the purchase price placed in escrow or subject to a holdback as part of the Transaction, but shall not be adjusted by any fees, prorations or closing expenses. The Sale Transaction Fee will become due and payable by Trustee upon consummation of a Transaction, whether or not through the efforts of JLL, provided Trustee has entered into a letter of intent or definitive agreement for the Transaction during the term of this Agreement.

For purposes of this Agreement, the term "Transaction" shall include a direct or indirect transaction with respect to the Property or of the interests in any entity holding title to the Property, whether accomplished through a sale, merger, consolidation or otherwise; any direct or indirect transaction with respect to a partial ownership interest in the Property; or any capital investment structured as a financing, joint venture or any combination thereof. In no event, however, shall a Transaction be deemed to have occurred if the Transaction does not close for any reason; and in such case, JLL shall not be entitled to any Sale Transaction Fee.

**EXHIBIT I**

**LEGAL DESCRIPTION OF PROPERTY**

The legal description of the Property is as follows: **[INSERT LEGAL DESCRIPTION OF PROPERTY]**.

**EXHIBIT 7**



## LISTING AGREEMENT

This AGREEMENT, dated as of the last date written below, by and between Michael F. Thomson, Chapter 11 Trustee (the “**Trustee**”) for The Falls Event Center, LLC (“**Debtor TFEC**” in Case No. 18-25116 (the “**TFEC Case**”) pending in the United States Bankruptcy Court for the District of Utah (the “**Bankruptcy Court**”), and JONES LANG LASALLE AMERICAS, INC., (hereinafter “**JLL**”). In his capacity as the Chapter 11 Trustee for Debtor TFEC, the Trustee manages The Falls at St. George, LLC (“**Debtor St. George**”), the Debtor-in-Possession in Chapter 11 Case No. 18-18-26653 (the “**St. George Case**”).

### BACKGROUND

- A. Debtor St. George owns real property located at 170 South Mall Drive, St. George, Utah 84790 (the “**Property**”).
- B. The Trustee desires to engage JLL as its sole and exclusive sales agent for the Property.
- C. JLL desires to accept such employment and is engaged in the business of marketing properties.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### ARTICLE 1. TERM; TERMINATION

1.1 Bankruptcy Court Approval/Initial Term. This Agreement is subject to approval by the Bankruptcy Court. JLL's duties and responsibilities under this Agreement shall begin upon entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL, and shall end twelve (12) months thereafter, unless sooner terminated as provided herein.

1.2 Termination. Either party may, at its option and in its sole and absolute discretion, elect to terminate this Agreement upon sixty (60) days' prior written notice to the other party. To the extent not prohibited by law, this Agreement shall automatically be renewed on a month-to-month basis on its existing terms and conditions unless written notice to the contrary is given by either party not less than thirty (30) days prior to the end of a term.

### ARTICLE 2. SERVICES

2.1 Services. The Trustee hereby engages, subject to Bankruptcy Court approval, JLL as its exclusive broker for the purpose of selling the Property (the “**Services**”). JLL shall perform the Services in accordance with applicable professional standards. The Trustee shall refer all inquiries to JLL and conduct all negotiations through JLL (under the supervision, direction and control of Trustee), but JLL has no authority to obligate the Trustee, the bankruptcy estate of Debtor St. George, or Debtor St. George until expressly authorized in writing by the Trustee. Brian Anderson and Wick Udy of JLL (the “**Project Team**”) will perform the Services under this Agreement. JLL may cooperate with cooperating brokers, including representatives of JLL or its affiliates other than Project Team members (“**JLL Non-Team Brokers**”), in selling the Property. In such case, the JLL Non-Team Brokers shall be considered cooperating brokers for purposes of this Agreement. In the event that a cooperating broker shall procure a purchaser of the Property, and such party purchases the Property from Debtor St. George through the Trustee, the bankruptcy estate of Debtor St. George shall pay JLL and the cooperating broker the commissions computed in accordance with



the rates set forth on Schedule A to this Agreement. In the event any Project Team member exclusively represents a prospective party, such Project Team member will recuse himself or herself from representation of Trustee hereunder and will be considered a JLL Non-Team Broker for purposes of the applicable sale transaction, and the remaining Project Team members will continue to represent Trustee pursuant to the terms of this Agreement. Such recused Project Team member shall in all events maintain the confidentiality of Debtor St. George and the Trustee's confidential information. All final business decisions shall be made solely by Trustee, and may be subject to approval by the Bankruptcy Court. All sale agreements shall be prepared by Trustee's counsel with assistance from JLL.

2.2 Intentionally deleted.

2.3 Intentionally deleted.

2.4 Intentionally deleted.

2.5 Technical Matters. Trustee acknowledges that JLL is not an expert in and is not responsible for any legal, regulatory, tax, accounting, engineering, environmental or other technical matters, all of which shall be solely Trustee's responsibility. JLL shall, based on its professional expertise, assist Trustee in connection with such matters, including giving the Trustee recommendations as to experts to use for such matters and coordinating the work of such experts with the other parties working on the transaction, but in no event shall JLL have responsibility for the work of such experts.

#### ARTICLE 3. INDEMNIFICATION

JLL will defend (with counsel reasonably acceptable to Trustee), indemnify and hold harmless Trustee, Debtor St. George and its affiliates, and each and all of their officers, directors, employees, partners and agents, from and against all third party claims, losses, liabilities and expenses, including reasonable attorneys' fees, expert witness fees and court costs ("Loss"), to the extent arising out of JLL's gross negligence or intentional misconduct in connection with this Agreement.

#### ARTICLE 4. COMPENSATION

JLL shall receive remuneration for its services in accordance with the terms of this Agreement and Schedule A.

#### ARTICLE 5. NOTICES

All notices, demands, consents and reports provided for in this Agreement shall be in writing and shall be given to Trustee or JLL at the address set forth below or at such other address as they individually may specify thereafter in writing:

TRUSTEE: Michael F. Thomson, Trustee  
c/o Peggy Hunt  
Dorsey & Whitney LLP  
111 S. Main, Suite 2100  
Salt Lake City, UT 84111

JLL: Jones Lang LaSalle  
111 S. Main St., Suite 300  
Salt Lake City, UT 84111  
Attention: Brian Anderson

with copies to: Jones Lang LaSalle  
200 East Randolph Drive  
Chicago, IL 60601  
Attention: Regional Counsel

Such notice or other communication shall be delivered by hand or by nationally recognized overnight courier service. For purposes of this Agreement, notices will be deemed to have been given upon receipt or refusal of receipt.

## ARTICLE 6. GENERAL PROVISIONS

6.1 Confidentiality; Publicity. JLL shall keep confidential all non-public information obtained from Trustee relating to the Services, except as reasonably required in order to perform Services hereunder, for the term of this Agreement and for two (2) years after the expiration or termination of this Agreement. In addition, any and all data and studies created in connection with the Services shall belong to Trustee. Trustee agrees that JLL may publicize its role in any transaction Trustee enters into, provided JLL does not disclose any financial information regarding such transaction. JLL may use Trustee's name in a list of clients for marketing and promotional purposes.

6.2 Limited Liability. Neither party shall be liable to the other for, and each party hereby waives any and all rights to claim against the other, any special, indirect, incidental, consequential, punitive or exemplary damages in connection with this Agreement, including, but not limited to, lost profits, even if the party has knowledge of the possibility of such damages. In no event shall JLL's liability to Trustee for any transaction exceed the fees paid to JLL in connection with such transaction.

6.3. Miscellaneous. This Agreement, together with the Rider(s), Schedule(s) and Exhibits(s), if any, attached hereto, represents the complete and final understanding between JLL and Trustee with respect to the Services and may not be waived, amended, or modified by either party unless such waiver, amendment or modification is in writing and signed by both parties. If any provision of this Agreement is invalid under applicable law, such invalidity shall not affect the other provisions of this Agreement. This Agreement shall be governed by the laws of the state of Utah. This Agreement is binding upon the parties hereto and their respective successors and assigns; provided, however, this Agreement may not be assigned by either party except to any other entity that acquires all or substantially all of the business and employees of such party, and except that JLL may delegate its duties to a state-licensed affiliate. All disputes related to this Agreement are subject to the jurisdiction of the Bankruptcy Court, and JLL expressly consents to jurisdiction in the Bankruptcy Court.

6.4. Non-Discrimination. The parties hereto acknowledge that it is illegal to refuse to display, lease or sell to or from any person because of one's membership in a protected class, e.g., race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other protected class, and agree not to discriminate unlawfully against anyone in a protected class.

6.5 Survival. The provisions of Section 1.3, Articles 3, 4 and Sections 6.1, 6.2, 6.5, 6.6, 6.7, and 6.8 of this Agreement shall survive the expiration or termination of this Agreement.

6.6 Attorney's Fees; JURY WAIVER; Late Payments. If either party shall institute any action or proceeding against the other relating to the provisions of this Agreement, the unsuccessful party in the action or proceeding shall reimburse the prevailing party for all reasonable expenses and attorneys' fees and disbursements. THE PARTIES HEREBY WAIVE TRIAL BY JURY. Delinquent payments hereunder shall earn interest at the rate of one-and-a-half percent (1 ½%) per month from the date due until paid.

6.7 Intentionally omitted.

6.8 Counterparts; Electronic/Facsimile Signature. This Agreement 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 instrument. The parties agree that an electronic or facsimile signature shall be considered an original signature.

6.9 Authorization. The individual executing this Agreement personally certifies and warrants that he or she is duly authorized to sign this Agreement, and that by his or her execution hereof, this Agreement shall be legally binding and enforceable upon the entry of an order of the Bankruptcy Court authorizing the Trustee to employ JLL.

6.10 OFAC. Trustee represents and warrants that neither it nor any of its employees is a person or entity with whom U.S. entities are restricted from doing business under regulations of the Office of Foreign Asset Control (“OFAC”) of the Department of the Treasury (including those named on OFAC’s Specially Designated and Blocked Persons List) or under any statute, executive order or other governmental action.

6.11 Trustee Liability Limited/Court Approval. The Trustee and his attorneys and agents shall have no personal liability under this Agreement. JLL expressly understands and agrees that any amounts owed under this Agreement shall be paid through the bankruptcy estate of Debtor St. George. JLL acknowledges that sales of the Property may be, in the Trustee’s sole discretion, subject to Bankruptcy Court approval, and in the event that the Bankruptcy Court does not approve a sale of Property, the Trustee, Debtor St. George, and the Debtor St. George’s bankruptcy estate shall have no liability to JLL or any other party.

#### ARTICLE 7. UTAH STATE-SPECIFIC PROVISIONS

7.1 State-Required Notifications. Utah Law requires that JLL disclose to Trustee the following:

7.1.1. JLL and its affiliated licensees retain an active real estate license in Utah.

7.1.2. The Project Team of JLL is Trustee’s agent in this Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first written below.

Michael F. Thomson, Chapter 11 Trustee for **The Falls Event Center, LLC**,  
Case No. 18-25116

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**The Falls at St. George, LLC**, the  
Debtor-in-Possession in Chapter 11 Case No. 18-26653

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**JONES LANG LASALLE AMERICAS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Utah R.E. License #: \_\_\_\_\_  
Date: \_\_\_\_\_

**SCHEDULE A**

**JLL'S COMPENSATION**

II. Sale Transaction Fee

- Without a Cooperating Broker: Five percent (5%) of the Gross Proceeds
- With a Cooperating Broker: Six percent (6%) of the Gross Proceeds, to be shared equally between JLL and the cooperating broker.

For purposes of calculating the Sale Transaction Fee payable under this Agreement, the term "Gross Proceeds" shall mean the total fair market value of the gross consideration (including, without limitation, cash, notes, securities, property, obligations or mortgages assumed or taken subject to, and any other form of consideration) to be received by the Debtor St. George and/or its investors in connection with the Transaction (as defined below). Gross Proceeds shall include any portion of the purchase price placed in escrow or subject to a holdback as part of the Transaction, but shall not be adjusted by any fees, prorations or closing expenses. The Sale Transaction Fee will become due and payable by Trustee upon consummation of a Transaction, whether or not through the efforts of JLL, provided Trustee has entered into a letter of intent or definitive agreement for the Transaction during the term of this Agreement.

For purposes of this Agreement, the term "Transaction" shall include a direct or indirect transaction with respect to the Property or of the interests in any entity holding title to the Property, whether accomplished through a sale, merger, consolidation or otherwise; any direct or indirect transaction with respect to a partial ownership interest in the Property; or any capital investment structured as a financing, joint venture or any combination thereof. In no event, however, shall a Transaction be deemed to have occurred if the Transaction does not close for any reason; and in such case, JLL shall not be entitled to any Sale Transaction Fee.