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BENEWAH COUNTY  
DEANNA BRAMBLETT, CLERK  
265179  
FIRST AMERICAN COMMERCIAL  
FEES:\$ 28.00

Recording Requested By and  
When Recorded Return to:

Schwab Properties, Ltd.  
ATTN: Real Estate Dept.  
PO Box 5350  
Bend, OR 97708

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SPACE ABOVE THIS LINE FOR RECORDERS USE ONLY

**THIS PROPERTY IS SUBJECT TO AN ENVIRONMENTAL COVENANT IMPOSING  
ACTIVITY AND USE LIMITATIONS PURSUANT TO THE UNIFORM ENVIRONMENTAL  
COVENANTS ACT, IDAHO CODE § 55-3001, et seq.**

### **ENVIRONMENTAL COVENANT**

This instrument is an Environmental Covenant ("Environmental Covenant") executed by Schwab Properties, Ltd ("Schwab"), Owner, and the Idaho Department of Environmental Quality ("Department") pursuant to the Uniform Environmental Covenants Act, Idaho Code §§ 55-3001 through 3015. This Environmental Covenant sets forth protective provisions, covenants, restrictions and conditions (collectively referred to as "Activity and Use Limitations") on the Restricted Area of the Property described below. The Activity and Use Limitations are designed to protect natural resources, human health and the environment. Schwab, as the current property owner grants this Environmental Covenant to all signatories to this instrument.

**Property.** This Environmental Covenant concerns real property located at 930 Main Avenue, St. Maries, County of Benewah, State of Idaho (hereafter referred to as "the Property"). The Activity and Use Limitation described in this Environmental Covenant only applies to the following subpart of the whole property, hereafter referred to as the Restricted Area and is legally described as follows: The South 55 feet of Lots 15, 16, 17, and 18 of Block 24, Railroad Addition to St. Maries, in Section 22, Township 46 North, Range 2 West, B.M., Benewah County, Idaho (Restricted Area)". A map depicting the Restricted Area of the Property is attached.

**Property Ownership.** Schwab hereby represents and warrants to the other signatories to this Environmental Covenant that it is the sole owner of the property, holds fee simple title to the property and Schwab has the power and authority to enter into this Environmental Covenant.

**Reason for Activity and Use Limitations.** Prior to Schwab's ownership, the Property described above was used to operate an auto dealership. In October 2011, during paving preparation activities, previously unknown petroleum underground storage tanks were discovered. Schwab removed the tanks and performed a release investigation that identified residual soil and groundwater concentrations of gasoline related chemicals. The concentrations of naphthalene in soil are above risk-based concentrations suitable for unrestricted use via the vapor intrusion pathway as determined by the Department. Therefore, this Environmental Covenant is required

to limit future use of the Restricted Area of the Property to protect human health and the environment.

**Name and Location of Administrative Record.** A copy of the Schwab, St. Maries, Remediation File for this event can be found at the Coeur d'Alene Regional Office of the Department of Environmental Quality.

**Activity and Use Limitations.** By acceptance and recordation of this Environmental Covenant, Schwab and any successors in interest, are hereby restricted from using the Restricted Area of the Property, now or at any time in the future, as specifically set forth below:

The Restricted Area of the Property, and any portion thereof, may be used for commercial and industrial uses only. The Restricted Area of the Property shall not be used for residential purposes, agricultural purposes, or any permanently occupied human habitation (including hotels or motels), school, day care or hospital use.

Schwab, or its successors in interest, shall be solely responsible for demonstrating that use on the Property is in conformity with the Activity and Use Limitations.

**Amendment by Consent.** The Environmental Covenant may be amended by consent pursuant to Idaho Code § 55-3010. Except for an assignment undertaken pursuant to a governmental reorganization, assignment of the Environmental Covenant to a new holder is an amendment.

**Termination by Consent.** The Activity and Use Limitations shall apply to the Restricted Area of the Property, or any subdivided portion thereof, unless Schwab, or its successors in interest, applies to the Department to have this Environmental Covenant terminated pursuant to Idaho Code § 55-3010 and demonstrates that:

Contaminated soils are at levels the Department deems in writing to be adequate for the Restricted Area of the Property to be developed for unrestricted use.

**Provisions to Run With the Land.** Each and all of the Activity and Use Limitations shall run with the land, and pass with each and every portion of the Restricted Area of the Property, and shall apply to and bind the respective successors in interest thereof.

**Concurrence of Subsequent Owners Presumed.** All purchasers, lessees, or possessors of any portion of the Restricted Area of the Property shall be deemed by their purchase, leasing, or possession of such Restricted Area of the Property, to be in accord with the foregoing and to agree for and among themselves, and their successors, that the Activity and Use Limitations as herein established must be adhered to and that their interest in the Restricted Area of the Property shall be subject to the Activity and Use Limitations contained herein.

**Recording/Filing of Environmental Covenant.** This Environmental Covenant and any amendment or termination of the Environmental Covenant shall be recorded in the county recorder's office of every county in which any portion of the Property subject to the Environmental Covenant is located. The Environmental Covenant or any amendment or termination shall be recorded by Schwab, or its successors in interest, within ten (10) days of receipt of this Environmental Covenant signed by the Department. Within ten (10) days of the recording of this Environmental Covenant, or any amendment or termination, Schwab, or its

successors in interest, shall provide to the Department a copy of this recorded Environmental Covenant, or any amendment or termination of this Environmental Covenant. Upon receipt of the copy of the recorded Environmental Covenant, and any amendment or termination therein, the Department shall post the copy of the fully executed instrument in the Registry as required by Idaho Code Section 55-3012(1). In addition, a copy of the recorded Environmental Covenant, or any amendment or termination, shall be provided by Schwab, or by its successors in interest, to the following persons: (a) each person that signed the Environmental Covenant; (b) each person holding a recorded interest in the Property; (c) each person in possession of the Property; (d) each municipality or other local government in which the Property is located; and (e) any other person the Department requires. The validity of the Environmental Covenant is not affected by failure to provide a copy of the Environmental Covenant as required under this section. The Activity and Use Limitations set forth herein shall be incorporated by reference in each and all deeds and leases of any portion of the Property.

Compliance Reporting. Owner[s], or any successors in interest, shall submit to the Department on an annual basis written documentation verifying that the activity and use limitations remain in place and their compliance with the activity and use limitations.

Enforcement. The Department and any party of the Environmental Covenant shall have authority to enforce the Activity and Use Limitations against Schwab or its successors-in-interest, including subsequent owners of the Property and any other person using the Property. Failure of Schwab, or its successor in interest, to comply with any of the Activity and Use Limitations set forth herein shall be grounds for the Department, or its successor, to require that the Owner correct or remove any violations of this Environmental Covenant. Violation of this Environmental Covenant shall be grounds for the Department, or its successor, to file civil actions against the Owner as provided by law or in equity, including without limitation, the Uniform Environmental Covenants Act, Idaho Code § 55-3011.

Property Access. The Department shall have a right of access to the Property for the purposes of ensuring compliance with this Environmental Covenant.

Notice of Conveyance of Property. Within thirty (30) days of the closing of any conveyance of the Property, or part thereof, the Conveyer of the Property, shall provide written notice to the Department and each municipality or other local government in which the Property is located, the name and address of all the then Owners and/or Occupants of the Property, or part thereof, conveyed. The Department shall not, by reason of this Environmental Covenant, have authority to approve, disapprove, or otherwise affect any conveyance of the Property except as otherwise provided by law.

Notices. All notices required or permitted to be given hereunder shall be in writing and mailed in the United States Mail, postage prepaid, by certified or registered mail, return receipt requested, to the appropriate address indicated below or at such other place or places as either Schwab or its successors, or the Department or its successors, may, from time to time, respectively, designate in a written notice given to the other. Notices which are deposited in the United States Mail in accordance with the terms of this provision shall be deemed received three (3) days after the date of mailing thereof.

OWNER: Schwab Properties, Ltd  
Attn.: Real Estate Management  
PO Box 5350  
Bend, OR 97708

**THE DEPARTMENT:**

Idaho Department of Environmental Quality  
ATTN: State Response Program Manager  
1410 N. Hilton  
Boise, ID 83706

**Costs and Expenses.** All costs of terminating this Environmental Covenant, including the cost of any remediation or abatement of any environmental condition related to Activity and Use Limitations pertaining to the Property, shall be borne by the party seeking such termination.

**Partial Invalidity.** If any portion of the Environmental Covenant or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such invalidated portion had not been included herein.

**Headings.** Headings at the beginning of each section of this Environmental Covenant are solely for the convenience of the parties and are not a part of the Environmental Covenant.


**Idaho Code References.** All references to the Idaho Code sections include successor provisions.

**Reservation of Rights.** Notwithstanding any provision of this Environmental Covenant, the Department retains all of its access and enforcement authorities under any applicable statute or rule. Nothing in this Environmental Covenant shall affect the Department's ability to enforce the terms of any voluntary consent order or other agreement relating to remediation of the Property entered into between the Department and Schwab or any other responsible party. Nothing in this Environmental Covenant shall affect the obligations of Schwab or any other responsible party under such voluntary consent order or other agreement. The Department's acceptance hereunder is based upon the information presently known or available to the Department with respect to the environmental condition of the Property, and the Department reserves the right to take appropriate action under applicable authorities in the event the Department determines new information warrants such action.

**Effective Date.** The effective date of this instrument shall be the date the fully executed Environmental Covenant is recorded at the county recorder's office.

Signature and Acknowledgments  
Accepted:

Idaho Department of Environmental Quality

Signature:   
Printed Name: Curt A. Fransen  
Title: Director, Idaho Department of Environmental Quality  
Date: \_\_\_\_\_

State of Idaho            )  
                                          ) ss.  
County of Ada            )

On this 7 day of March, in the year 2013, before me, a Notary Public in and for said County and State, personally appeared Curt A. Fransen, known or identified to me to be the Director of the Idaho Department of Environmental Quality that executed this Environmental Covenant, and acknowledged to me that the Idaho Department of Environmental Quality executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




Notary Public for Idaho: Rosie M. Alonzo  
Residing at: Nampa Idaho  
Commission Expires: 1/30/2015

Signature and Acknowledgments

Accepted:

Property Owner

Signature:   
 Printed Name: Corey J. Parks  
 Title: Secretary of SLC-SP LLC, its General Partner  
 Date: February 21, 2013

STATE OF OREGON                    )  
                                                   )  
 County of Deschutes                )        ss.

This instrument was acknowledged before me on February 21, 2013, by Corey J. Parks, as the Secretary of SLC-SP LLC, the General Partner of Schwab Properties, Ltd.

  
 Notary Public - State of Oregon

