

AFTER RECORDING RETURN TO:

Stinson LLP  
50 South Sixth Street, Suite 2600  
Minneapolis, Minnesota 55402  
Attention: Steven B. Mayeron



**202008170188**

08/17/2020 12:16 PM Pages: 1 of 25 Fees: \$439.00  
Skagit County Auditor

Recorder's Use

**DEED OF TRUST, SECURITY AGREEMENT,  
ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING**

**GRANTOR:** MCP BIRCHVIEW WA PROPCO LLC,  
a Texas limited liability company  
**GRANTEE:** BMO HARRIS BANK N.A.,  
(Beneficiary) a national banking association  
20-4558  
GUARDIAN NORTHWEST TITLE CO.

**GRANTEE:** FIRST AMERICAN TITLE INSURANCE COMPANY,  
(Trustee) a Nebraska corporation  
Real property in the City of Sedro-Woolley, County of Skagit, State of Washington,  
described as follows:

**LEGAL DESCRIPTION:** Lots 1 – 15, inclusive, and Lots 17 – 30, inclusive, Block 115, "Plat of the Town of Sedro" as per plat recorded in Volume 1 of Plats, Page 18, Records of Skagit County, Washington.

Together with those portions of vacated Woods Avenue, Graves Street also known as Fairhaven Street and the Alley located in said Block pursuant to City of Sedro-Woolley Ordinance No. 1253-96, dated February 12, 1996, which attached to the premise by operation of law.

**ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBER(S):** 4152-115-015-0007, 4152-115-010-0002, and 4152-115-030-0008

**THIS DOCUMENT SERVES AS A FIXTURE FILING UNDER SECTION 9502 OF THE UNIFORM COMMERCIAL CODE, AS ADOPTED BY THE STATE OF WASHINGTON AND SET FORTH IN RCW 62A.9A-502.**

THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING (this "**Security Instrument**") is made as of July 1, 2020, by **MCP BIRCHVIEW WA PROPCO LLC**, a Texas limited liability company, having an address at c/o MedCore Partners, LLC, 12377 Merit Drive, Suite 500, Dallas, Texas 75251, as grantor ("**Grantor**"), to **FIRST AMERICAN TITLE INSURANCE COMPANY**, a Nebraska corporation, having a mailing address at 920 Fifth Avenue, Suite 1200, Seattle, WA 98104, as Trustee ("**Trustee**"), for the benefit of **BMO HARRIS BANK N.A.**, a national banking association, as grantee, having an address at 115 S. LaSalle Street, 19W, Chicago, Illinois 60603, as Beneficiary (together with its successors and assigns, "**Administrative Agent**") for itself and such other co-lenders as may exist from time to time (collectively, "**Lenders**").

RECITALS:

A. This Security Instrument is given to secure a loan (the "**Loan**") in the principal sum of FORTY-FOUR MILLION EIGHT HUNDRED NINETY-ONE THOUSAND ONE HUNDRED FORTY-SIX DOLLARS (\$44,891,146.00) or so much thereof as may be advanced pursuant to that certain Loan Agreement dated as of the date hereof among Grantor, the borrower parties described therein (collectively, the "**Borrowers**"), Administrative Agent and the Lenders (as the same may be amended, restated, replaced, supplemented, or otherwise modified from time to time, the "**Loan Agreement**") evidenced by that certain Promissory Note or those certain Promissory Notes each dated as of the date hereof made by the Borrowers to Lender (such Promissory Notes, together with all extensions, renewals, replacements, restatements, or modifications thereof being hereinafter referred to collectively as the "**Note**") and due on July 1, 2025 (the "**Maturity Date**"), or such earlier date on which the final payment of principal of the Note becomes due and payable as provided under the Loan Documents (as defined below), whether at such stated Maturity Date, by declaration of acceleration, or otherwise;

B. Grantor desires to secure its obligation to pay the outstanding principal amount of the Loan together with all interest accrued and unpaid thereon, and all other sums due to Administrative Agent and Lenders in respect of the Loan under the Note, the Loan Agreement, this Security Instrument, the Environmental Indemnity (to the extent required therein), and any other Loan Document (collectively, the "**Debt**") and the performance of all of its other obligations under the Note, the Loan Agreement, and the other Loan Documents; and

C. This Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Grantor of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations, and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument, the Loan Agreement, the Note, this Security Instrument, and all other documents evidencing or securing the Debt or delivered in connection with the making of the Loan, as the same may be amended, restated, replaced, supplemented, or otherwise modified from time to time, are hereinafter referred to collectively as the "**Loan Documents**").

NOW THEREFORE, in consideration of the making of the Loan by Lenders and the covenants, agreements, representations and warranties set forth in this Security Instrument:

Article 1 - GRANTS OF SECURITY

Section 1.1 PROPERTY SUBJECT TO DEED OF TRUST. Grantor does hereby irrevocably mortgage, grant, bargain, sell, alienate, pledge, assign, warrant, transfer, confirm, hypothecate, and convey IN TRUST WITH POWER OF SALE and right of entry and possession, to Trustee, for the benefit of Administrative Agent and its successors and assigns, all of the following property, rights, interests, and estates now owned, or hereafter acquired by Grantor (collectively, the "**Property**"):

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the "**Land**");

(b) Additional Land. All additional lands, estates, and development rights hereafter acquired by Grantor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage, deed of trust or otherwise be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements, and improvements now or hereafter erected or located on the Land (collectively, the "**Improvements**");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments, and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversion and reversions, remainder and remainders and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim, and demand whatsoever, both at law and in equity, of Grantor of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Equipment. All "equipment," as such term is defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Grantor, which is used at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Grantor and any and all additions, substitutions, and replacements of any of the foregoing), together with all attachments, components, parts, equipment, and accessories installed thereon or affixed thereto (collectively, the "**Equipment**").

(f) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Grantor which is so related to the Land and the Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration, or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures, and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment, and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others and, if owned jointly, to the extent of Grantor's interest therein), and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments, and substitutions for any of the foregoing and the proceeds thereof (collectively, the "**Fixtures**").

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, and appliances, including, but not limited to, disposals, dishwashers, refrigerators and ranges, recreational equipment, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code as hereinafter defined), other than Fixtures, which are now or hereafter owned by Grantor and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "**Personal Property**"), and the right, title, and interest of Grantor in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the State of Washington (the "**Uniform Commercial Code**"), superior in lien to the lien of this Security Instrument and all proceeds and products of the above;

(h) Leases. All leases, subleases, licenses, franchises, concessions, or grants of other possessory interests, tenancies, and any other agreements affecting the use, possession, or occupancy of the Property or any part thereof, whether now or hereafter existing or entered into (including, without limitation, any use or occupancy arrangements created pursuant to Section 365(d) of the Bankruptcy Code or otherwise in connection with the commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership, or similar proceedings, or any assignment for the benefit of creditors, in respect of any tenant or occupant of any portion of the Property) and all amendments, modifications, supplements, extensions, or renewals thereof, whether now or hereafter existing (collectively, the "**Leases**");

(i) Rents. All rents, including without limitation percentage rent and additional rent (including tenant tax and operating expense reimbursements), monies payable as damages or in  
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lieu of rent, revenues, parking revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, income, receipts, royalties, receivables, termination payments, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Grantor, or its agents or employees, from any and all sources arising from or attributable to the Property (collectively, the "Rents"), but excluding any Governmental Payments;

(j) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(k) Insurance Proceeds. All proceeds in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(l) Tax Certiorari. All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(m) Rights. The right, in the name and on behalf of Grantor, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Administrative Agent in the Property;

(n) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, applications, entitlements, plans, specifications, drawings, and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management, or operation of the Land, and any part thereof, and any of the Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title, and interest of Grantor therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Grantor thereunder;

(o) Trademarks. All trade names, trademarks, service marks, logos, copyrights, goodwill, books and records, websites and domain names, and all other general intangibles relating to or used in connection with the operation of the Property;

(p) Accounts. All reserves, escrows, and deposit accounts maintained by Grantor with respect to the Property, including, without limitation, all accounts established or maintained pursuant to the Loan Agreement or any other Loan Document, including, without limitation, the Accounts (as defined in the Loan Agreement), but excluding any Governmental Payments Account or other account established for the purpose of collecting Governmental Payments, together with all deposits or wire transfers made to such accounts, and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments, and other property held

therein from time to time, and all proceeds, products, distributions, dividends, and/or substitutions thereon and thereof;

(q) Rate Management Agreements. All rights, claims, interests, proceeds, or other benefits of Grantor under any agreement, device, or arrangement providing for payments which are related to fluctuations of interest rates, exchange rates, forward rates, or equity prices, including, but not limited to, dollar-denominated or cross-currency interest rate exchange agreements, forward currency exchange agreements, interest rate cap or collar protection agreements, forward rate currency or interest rate options, puts and warrants, and any agreement pertaining to equity derivative transactions (e.g., equity or equity index swaps, options, caps, floors, collars, and forwards), including, without limitation, any such agreement between Grantor and Administrative Agent or any Lender, any Affiliate of Administrative Agent or a Lender or any other Person and any schedules, confirmations, and documents and other confirming evidence between the parties confirming transactions thereunder, all whether now existing or hereafter arising and in each case, as amended, modified or supplemented from time to time (collectively, the "**Rate Management Agreements**");

(r) Proceeds. All proceeds and products of any of the foregoing, including, without limitation, proceeds of insurance and condemnation awards, whether cash, liquidation, other claims or otherwise; and

(s) Other Rights. Any and all other rights of Grantor in and to the items set forth in subsections (a) through (r) above.

AND without limiting any of the other provisions of this Security Instrument, to the extent permitted by applicable law, Grantor expressly grants to Administrative Agent, as Secured Party, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements, and the Fixtures collectively referred to as the "**Real Property**") appropriated to the use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and subject to this Security Instrument.

Section 1.2 ASSIGNMENT OF RENTS. Grantor hereby absolutely and unconditionally assigns to Administrative Agent all of Grantor's right, title, and interest in and to all current and future Leases and Rents, including all prepaid rents and security deposits; it being intended by Grantor that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of this Security Instrument and the Loan Agreement, Administrative Agent grants to Grantor a revocable license to collect, receive, use and enjoy the Rents (excluding however any Lease termination, cancellation, option, or similar payments, which Grantor agrees shall be held in trust and turned over to Administrative Agent to be applied in accordance with the Loan Documents) so long as no Event of Default exists. Grantor shall hold the Rents, or a portion thereof sufficient to discharge all sums currently due on the Debt, in trust for the benefit of Administrative Agent, for use in the payment of such sums.

If this present, absolute and unconditional assignment is not enforceable by its terms under the laws of the State of Washington, then it is the intention that this assignment be treated as additional security for the indebtedness evidenced by the Loan Documents and, upon recording of this Security Instrument, shall immediately perfect the security interest in such unpaid rents and profits in Administrative Agent pursuant to RCW 7.28.230 and shall not require any further action by Administrative Agent to be perfected as to any subsequent purchaser, mortgagee, or assignee of any interest in the Property. The lien created by this assignment shall, when recorded, be deemed specific, perfected, and choate.

Section 1.3 SECURITY AGREEMENT. This Security Instrument is both a real property deed of trust and a "security agreement" and "financing statement" within the meaning of the Uniform Commercial Code. For that purpose, Grantor is the "Debtor" and Administrative Agent is the "Secured Party". The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Grantor in the Property. By executing and delivering this Security Instrument, Grantor hereby grants to Administrative Agent, as security for the Obligations (hereinafter defined), a security interest in the Fixtures, the Equipment, the Personal Property, and other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property, and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "**Collateral**"). If an Event of Default shall occur and be continuing, Administrative Agent, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Administrative Agent may deem reasonably necessary for the care, protection, and preservation of the Collateral. Upon request or demand of Administrative Agent during the existence of an Event of Default, Grantor shall, at its expense, assemble the Collateral and make it available to Administrative Agent at a convenient place (at the Land if tangible property) reasonably acceptable to Administrative Agent. Grantor shall pay to Administrative Agent on demand any and all expenses and fees, including legal expenses and attorneys' fees, incurred or paid by Administrative Agent in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral during the existence of an Event of Default. Any notice of sale, disposition or other intended action by Administrative Agent with respect to the Collateral sent to Grantor in accordance with the provisions hereof at least five (5) Business Days prior to such action, shall, except as otherwise provided by applicable law, constitute reasonable notice to Grantor. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Administrative Agent to the payment of the Debt in such priority and proportions as Administrative Agent in its discretion shall deem proper. The principal place of business of Grantor (Debtor) is as set forth on page one hereof and the address of Administrative Agent (Secured Party) is as set forth on page one hereof.

Section 1.4 FIXTURE FILING. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, described or referred to in this Security Instrument, and this Security Instrument, upon being filed for record in the real estate records of the county wherein such fixtures are situated, shall operate also as a financing

statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures. For purposes of this fixture filing, "Debtor" is Grantor and the "Secured Party" is Administrative Agent. Grantor is the record owner of the Land.

Section 1.5 PLEDGES OF MONIES HELD. Grantor hereby pledges to Administrative Agent any and all monies now or hereafter held by Administrative Agent or on behalf of Administrative Agent in connection with the Loan, including, without limitation, any sums deposited in the Accounts (as defined in the Loan Agreement), any Net Casualty Proceeds, and any Deficiency Deposits, as additional security for the Obligations until expended or applied as provided in this Security Instrument.

Section 1.6 FUTURE ADVANCES. This Security Instrument secures not only existing indebtedness or advances made contemporaneously with the execution hereof, if any, but also future principal advances (with all interest thereon), to or for the benefit of Grantor, made pursuant to the terms of the Loan Documents (as the same may be amended or supplemented from time to time), the terms of all of which are incorporated herein by reference, whether such advances are obligatory, optional, or both, to the same extent as if such future advances were made contemporaneously with the execution of this Security Instrument, even though no advance may have been made at the time of execution of this Security Instrument and even though no indebtedness may be outstanding at the time any advance is made, and any liens attaching to the Property after the date hereof shall be under, subject and subordinate to all indebtedness, including, without limitation, future advances (regardless of when made), secured hereby. This Security Instrument shall also secure, in addition to the principal amount specified herein, interest, service charges, and any disbursements made for the payment of taxes, assessments, maintenance, care, protection, or insurance on the Property, with interest on such disbursements.

#### CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property and all parts thereof, together with the rents, issues, profits, and proceeds thereof, unto the Trustee for and on behalf of Administrative Agent, Lenders and their successors and assigns, forever, subject to the Permitted Encumbrances;

IN TRUST, WITH POWER OF SALE, and right of entry and possession, to secure payment to Lender of the Debt at the time and in the manner provided for its payment in the Loan Agreement, the Note and this Security Instrument;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Grantor shall pay to Administrative Agent the Debt at the time and in the manner provided in the Note, the Loan Agreement, and this Security Instrument, shall perform the Other Obligations as set forth in this Security Instrument and shall abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement, and the other Loan Documents, Administrative Agent, at Grantor's request and expense, shall release the liens and security interests created by this Security Instrument; provided however, that Grantor's

obligation to indemnify, defend and hold harmless Administrative Agent pursuant to the provisions hereof and in the other Loan Documents shall survive any such payment or release.

#### Article 2 - DEBT AND OBLIGATIONS SECURED

Section 2.1 DEBT. This Security Instrument and the grants, assignments, and transfers made in Article 1 are given for the purpose of securing the Debt.

Section 2.2 OTHER OBLIGATIONS. This Security Instrument and the grants, assignments, and transfers made in Article 1 are also given for the purpose of securing the following (the "**Other Obligations**"):

- (a) the performance of all other obligations of Grantor contained herein;
- (b) the performance of each obligation of Grantor contained in the Loan Agreement and any other Loan Document;
- (c) the performance of each obligation of Grantor to Administrative Agent or any Lender or any Affiliate of Administrative Agent or any Lender, whether absolute, contingent or otherwise and howsoever and whensoever (whether now or hereafter) created, arising, evidenced, or acquired (including renewals, extensions, amendments, modifications, substitutions, and replacements thereof), under or in connection with (i) any and all Rate Management Agreements, and (ii) any and all cancellations, buy-backs, reversals, terminations, or assignments of any Rate Management Agreement; and
- (d) the performance of each obligation of Grantor contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution, or replacement for, all or any part of the Note, the Loan Agreement, or any other Loan Document.

Section 2.3 DEBT AND OTHER OBLIGATIONS. Grantor's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the "**Obligations**".

#### Article 3 - GRANTOR COVENANTS

Grantor covenants and agrees that:

Section 3.1 PAYMENT OF DEBT. Grantor will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note, and this Security Instrument.

Section 3.2 INCORPORATION BY REFERENCE. All recitals set forth above and all the covenants, conditions, and agreements contained in (a) the Loan Agreement, (b) the Note, and (c) all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 3.3 PERFORMANCE OF OTHER AGREEMENTS. Grantor shall observe and perform each and every term, covenant, and provision to be observed or performed by Grantor

pursuant to the Loan Agreement, any other Loan Document, and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications, or changes thereto.

#### Article 4 - OBLIGATIONS AND RELIANCES

##### Section 4.1 RELATIONSHIP OF GRANTOR AND ADMINISTRATIVE AGENT AND LENDERS.

The relationship between Grantor, on the one hand, and Administrative Agent and Lenders, on the other, is solely that of debtor and creditor, and neither Administrative Agent nor any Lender has a fiduciary or other special relationship with Grantor, and no term or condition of any of the Loan Agreement, the Note, this Security Instrument, and the other Loan Documents shall be construed so as to deem the relationship between Grantor, on the one hand, and Administrative Agent and Lenders, on the other, to be other than that of debtor and creditor.

##### Section 4.2 NO RELIANCE ON ADMINISTRATIVE AGENT OR LENDERS.

The general partners, members, principals, and (if Grantor is a trust) beneficial owners of Grantor are experienced in the ownership and operation of properties similar to the Property, and Grantor, Administrative Agent, and Lenders are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Grantor is not relying on Administrative Agent's or any Lender's expertise, business acumen or advice in connection with the Property.

##### Section 4.3 NO ADMINISTRATIVE AGENT OR LENDER OBLIGATIONS.

(a) Notwithstanding the provisions of subsections 1.1(h) and (n) or Section 1.2, Administrative Agent is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses, applications, entitlements, plans, specifications, drawings, and other documents.

(b) By accepting or approving anything required to be observed, performed, or fulfilled or to be given to Administrative Agent or any Lender pursuant to this Security Instrument, the Loan Agreement, the Note, or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss, or other financial statement, survey, appraisal, or insurance policy, neither Administrative Agent nor any Lender shall be deemed to have warranted, consented to, or affirmed the sufficiency, legality, or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Administrative Agent or any Lender.

Section 4.4 RELIANCE. Grantor recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Security Instrument, and the other Loan Documents, Administrative Agent and Lenders are expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article III of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Administrative Agent or any Lender; that such reliance existed on the part of Administrative Agent and Lenders prior to the date hereof, that the warranties and representations are a material

inducement to Lenders in making the Loan; and that Lenders would not be willing to make the Loan and Administrative Agent would not accept this Security Instrument in the absence of the warranties and representations as set forth in Article III of the Loan Agreement.

#### Article 5 -FURTHER ASSURANCES

Section 5.1 RECORDING OF SECURITY INSTRUMENT, ETC. Grantor, forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Administrative Agent in, the Property. Grantor will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Security Instrument, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county, and municipal taxes, duties, imposts, assessments, and charges arising out of or in connection with the execution and delivery of this Security Instrument, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

Section 5.2 FURTHER ACTS, ETC. Grantor will, at the cost of Grantor, and without expense to Administrative Agent, do, execute, acknowledge, and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers, and assurances as Administrative Agent shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Administrative Agent the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred, or intended now or hereafter so to be, or which Grantor may be or may hereafter become bound to convey or assign to Administrative Agent, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering, or recording this Security Instrument, or for complying with all Legal Requirements. Grantor, on demand, will authorize, execute and/or deliver, as applicable, and in the event it shall fail to so authorize, execute and/or deliver, as applicable, hereby authorizes Administrative Agent to execute in the name of Grantor or without the signatory of Grantor to the extent Administrative Agent may lawfully do so, one or more financing statements (including, without limitation, initial financing statements and amendments thereto and continuation statements) with or without the signature of Grantor as authorized by applicable law, to evidence more effectively the security interest of Administrative Agent in the Property. Grantor authorizes Administrative Agent to use collateral descriptions such as "all personal property" or "all assets", in each case "whether now owned or hereafter acquired words of similar import or any other description Lender, in its sole discretion, so chooses in any such

financing statements. Grantor also ratifies its authorization for Administrative Agent to have filed any like initial financing statements, amendments thereto and continuation statements, if filed prior to the date of this Security Instrument. Grantor grants to Administrative Agent an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Administrative Agent at law and inequity, including, without limitation, such rights and remedies available to Administrative Agent pursuant to this Section 5.2. To the extent not prohibited by applicable law, Grantor hereby ratifies all acts Administrative Agent has lawfully done in the past or shall lawfully do or cause to be done in the future by virtue of such power of attorney.

Section 5.3 CHANGES IN TAX, DEBT, CREDIT AND DOCUMENTARY STAMP LAWS.

(a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Administrative Agent's interest in the Property, Grantor will pay the tax, with interest and penalties thereon, if any, subject to Grantor's right to contest the same in accordance with the Loan Agreement. If Administrative Agent or any Lender is advised by counsel chosen by it that the payment of such tax by Grantor would be unlawful or taxable to Administrative Agent or such Lender or unenforceable or provide the basis for a defense of usury then Administrative Agent shall have the option by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable.

(b) Grantor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit, or deduction shall be required by law, Administrative Agent shall have the option, by written notice of not less than one hundred twenty (120) days, to declare the Debt immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Security Instrument, or any of the other Loan Documents or impose any other tax or charge on the same, Grantor will pay for the same, with interest and penalties thereon, if any.

Section 5.4 SPLITTING OF DEED OF TRUST. This Security Instrument and the Note shall, at any time until the same shall be fully paid and satisfied, at the sole election of Administrative Agent, be severed, split or divided into two or more notes and two or more security instruments in such denominations as Administrative Agent shall determine in its sole discretion, each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Grantor, upon written request of Administrative Agent, shall execute, acknowledge and deliver, or cause to be executed, acknowledged, and delivered, by the then owner of the Property, to Administrative Agent and/or its designee or designees substitute notes and security instruments in such principal amounts, aggregating not more than the then unpaid principal amount of the Note, and containing terms, provisions, and clauses similar to

those contained herein and in the Note, and such other documents and instruments as may be required by Administrative Agent.

Section 5.5 REPLACEMENT DOCUMENTS. Upon receipt of an affidavit of an officer of a Lender or Administrative Agent as to the loss, theft, destruction, or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Grantor will issue, in lieu thereof, a replacement Note or other Loan Document, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

#### Article 6 - DUE ON SALE/ENCUMBRANCE

Section 6.1 ADMINISTRATIVE AGENT AND LENDER RELIANCE. Grantor acknowledges that Administrative Agent and Lenders have examined and relied on the experience of Grantor and its managers, members, principals and (if Grantor is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan and will continue to rely on Grantor's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Grantor acknowledges that Administrative Agent and Lenders have a valid interest in maintaining the value of the Property to ensure that, should Grantor default in the repayment of the Debt or the performance of the Other Obligations, Administrative Agent, on behalf of itself and the Lenders, can recover the Debt by a sale of the Property.

Section 6.2 NO TRANSFER. Grantor shall not permit or suffer any Transfer to occur, other than a Permitted Transfer, unless Lender shall consent thereto in writing.

Section 6.3 ADMINISTRATIVE AGENT'S RIGHTS. Administrative Agent shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon a Transfer (other than a Permitted Transfer) without Administrative Agent's consent. This provision shall apply to every such Transfer, other than any Transfer permitted pursuant to the Loan Agreement, regardless of whether voluntary or not, or whether or not Administrative Agent has consented to any previous Transfer.

#### Article 7 -- DEFAULTS AND RIGHTS AND REMEDIES UPON DEFAULT

Section 7.1 EVENTS OF DEFAULT. Each of the following events shall constitute an event of default hereunder (each, an "Event of Default"): An "Event of Default" exists under the Loan Agreement or any other Loan Document.

Section 7.2 REMEDIES. Upon the occurrence and during the continuance of any Event of Default, Grantor agrees that Administrative Agent may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Grantor and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise (to the extent permitted by the laws of the State of Washington), at

such time and in such order as Administrative Agent may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Administrative Agent:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title, and interest of Grantor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;
- (e) institute an action, suit, or proceeding in equity for the specific performance of any covenant, condition, or agreement contained herein, in the Note, the Loan Agreement, or in the other Loan Documents;
- (f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;
- (g) apply for the appointment of a receiver, trustee, liquidator, or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Grantor, any guarantor, or indemnitor with respect to the Loan or of any Person liable for the payment of the Debt;
- (h) the license granted to Grantor under Section 1.2 hereof shall automatically be revoked and Administrative Agent may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Grantor and its agents and servants therefrom, without liability for trespass, damages, or otherwise and exclude Grantor and its agents or servants wholly therefrom, and take possession of the Property and all books, records, and accounts relating thereto and Grantor agrees to surrender possession of the Property and of such books, records, and accounts to Administrative Agent upon demand, and thereupon Administrative Agent may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Administrative Agent deems advisable; (iii) make alterations, additions, renewals, replacements, and improvements to or on the Property; (iv) exercise all rights and powers of Grantor with respect to the Property, whether in the name of Grantor or otherwise, including, without limitation, the right to make,

cancel, enforce, or modify Leases, obtain and evict tenants, and demand, sue for, collect, and receive all Rents of the Property and every part thereof; (v) require Grantor to pay monthly in advance to Administrative Agent, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Grantor; (vi) require Grantor to vacate and surrender possession of the Property to Administrative Agent or to such receiver and, in default thereof, Grantor may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Administrative Agent shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance, and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Administrative Agent, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment, and the Personal Property, or any part thereof, and to take such other measures as Administrative Agent may deem necessary for the care, protection, and preservation of the Fixtures, the Equipment and the Personal Property, and (ii) request Grantor at its expense to assemble the Fixtures, the Equipment, and the Personal Property and make it available to Administrative Agent at a convenient place acceptable to Administrative Agent. Any notice of sale, disposition, or other intended action by Administrative Agent with respect to the Fixtures, the Equipment, and/or the Personal Property sent to Grantor in accordance with the provisions hereof, at least five (5) days prior to such action, shall constitute commercially reasonable notice to Grantor;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Administrative Agent in accordance with the terms of the Loan Agreement, this Security Instrument, or any other Loan Document to the payment of the following items in any order in its sole discretion:

- (i) Taxes and Other Charges;
- (ii) Insurance Premiums;
- (iii) Interest on the unpaid principal balance of the Note;
- (iv) Amortization of the unpaid principal balance of the Note; and

(v) all other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument, and the other Loan Documents, including, without limitation, advances made by Administrative Agent pursuant to the terms of this Security Instrument;

(k) pursue such other remedies as Administrative Agent may have under the Loan Agreement and/or applicable law; or

(l) apply the undisbursed balance of any Net Casualty Proceeds deposit and any Deficiency Deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Administrative Agent shall deem to be appropriate in its discretion.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of the Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

Section 7.3 APPLICATION OF PROCEEDS. The purchase money, proceeds and avails of any disposition of the Property, and or any part thereof, or any other sums collected by Administrative Agent pursuant to the Note, this Security Instrument, or the other Loan Documents, may be applied by Administrative Agent to the payment of the Debt in such priority and proportions as Administrative Agent in its discretion shall deem proper.

Section 7.4 RIGHT TO CURE DEFAULTS. During the existence of any Event of Default or if Grantor fails to make any payment or to do any act as herein provided and such failure continues beyond any applicable notice and cure period, Administrative Agent may, but without any obligation to do so and without notice to or demand on Grantor and without releasing Grantor from any obligation hereunder, make or do the same in such manner and to such extent as Administrative Agent may deem necessary to protect the security hereof. Administrative Agent is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 7.4, shall constitute a portion of the Debt and shall be due and payable to Administrative Agent upon demand. All such costs and expenses incurred by Administrative Agent in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period after notice from Administrative Agent that such cost or expense was incurred to the date of payment to Administrative Agent. All such costs and expenses incurred by Administrative Agent together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Administrative Agent therefor. In addition to the foregoing award of attorneys' fees and costs, Administrative Agent shall be entitled to its attorneys' fees and costs incurred in any post-judgment proceedings to collect or enforce any judgment or order relating to this Security Instrument, which shall survive the merger of this provision into any judgment.

Section 7.5 ACTIONS AND PROCEEDINGS. Administrative Agent has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Grantor, which Administrative Agent, in its reasonable discretion, decides should be brought to protect its interest in the Property.

Section 7.6 RECOVERY OF SUMS REQUIRED TO BE PAID. Administrative Agent shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due to the extent not paid when due by Grantor, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right

of Administrative Agent thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Grantor existing at the time such earlier action was commenced.

Section 7.7 OTHER RIGHTS, ETC.

(a) The failure of Administrative Agent to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Grantor shall not be relieved of Grantor's obligations hereunder by reason of (i) the failure of Administrative Agent to comply with any request of Grantor or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents; (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof; or (iii) any agreement or stipulation by Administrative Agent extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Grantor, and Administrative Agent shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Administrative Agent shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in Administrative Agent's possession.

(c) Administrative Agent may resort for the payment of the Debt to any other security held by Administrative Agent in such order and manner as Administrative Agent, in its discretion, may elect. Administrative Agent may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Administrative Agent thereafter to foreclose this Security Instrument. The rights of Administrative Agent under this Security Instrument shall be separate, distinct, and cumulative and none shall be given effect to the exclusion of the others. No act of Administrative Agent shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Administrative Agent shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 7.8 RIGHT TO RELEASE ANY PORTION OF THE PROPERTY. Administrative Agent may release any portion of the Property for such consideration as Administrative Agent may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Administrative Agent for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Administrative Agent may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

Section 7.9 VIOLATION OF LAWS. If the Property is not in material compliance with Legal Requirements, Administrative Agent may impose reasonable additional requirements upon Grantor in connection herewith, including, without limitation, monetary reserves or financial equivalents.

Section 7.10 RIGHT OF ENTRY. Upon reasonable notice to Grantor, Administrative Agent and its agents shall have the right to enter and inspect the Property at all reasonable times subject to the rights of tenants under the Leases and Administrative Agent's commercially reasonable efforts to minimize interference with the operations of the Property.

#### Article 8 -INDEMNIFICATION

Section 8.1 GENERAL INDEMNIFICATION. The provisions of Section 12.13 of the Loan Agreement are hereby incorporated by reference into this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 8.2 DEED OF TRUST AND/OR INTANGIBLE TAX. Grantor shall, at its sole cost and expense, protect, defend, indemnify, release, and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Note or any of the other Loan Documents, but excluding any income, franchise, or other similar taxes. The liability of Grantor pursuant to this Section 8.2 is not limited to the original principal amount of the Note.

Section 8.3 DUTY TO DEFEND; ATTORNEYS' FEES AND OTHER FEES AND EXPENSES. Upon written request by any Indemnified Party, Grantor shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals approved by the Indemnified Parties. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include both Grantor and any Indemnified Party and Grantor and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and/or other Indemnified Parties that are different from or additional to those available to Grantor, such Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party, provided that no compromise or settlement shall be entered without Grantor's consent, which consent shall not be unreasonably withheld. Upon demand, Grantor shall pay or, in the sole and absolute discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories, and other professionals in connection therewith.

#### Article 9 - WAIVERS

Section 9.1 WAIVER OF COUNTERCLAIM. To the extent permitted by applicable law, Grantor hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Administrative Agent or any

Lender arising out of or in any way connected with this Security Instrument, the Loan Agreement, the Note, any of the other Loan Documents, or the Obligations.

Section 9.2 MARSHALLING AND OTHER MATTERS. To the extent permitted by applicable law, Grantor hereby waives the benefit of all appraisement, valuation, stay, extension, reinstatement, and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Grantor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Grantor, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by applicable law.

Section 9.3 WAIVER OF NOTICE. To the extent permitted by applicable law, Grantor shall not be entitled to any notices of any nature whatsoever from Administrative Agent except with respect to matters for which this Security Instrument or the Loan Agreement specifically and expressly provides for the giving of notice by Administrative Agent to Grantor and, except with respect to matters for which Administrative Agent is required by applicable law to give notice, Grantor hereby expressly waives the right to receive any notice from Administrative Agent with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Grantor.

Section 9.4 WAIVER OF STATUTE OF LIMITATIONS. To the extent permitted by applicable law, Grantor hereby expressly waives and releases the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

Section 9.5 SURVIVAL. The indemnifications made pursuant to Article 8 herein and the representations and warranties, covenants, and other obligations arising under the Environmental Indemnity, shall continue indefinitely in full force and effect and shall survive and shall in no way be impaired by any satisfaction or other termination of this Security Instrument or Administrative Agent's interest in the Property (but, in such case, shall benefit both Indemnified Parties and any assignee or transferee), any assignment or other transfer of any portion of this Security Instruments, any exercise of Administrative Agent's rights and remedies pursuant hereto, including but not limited to, foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Grantor or by Administrative Agent following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), any amendment to this Security Instrument, the Loan Agreement, the Note, or the other Loan Documents and any act or omission that might otherwise be construed as a release or discharge of Grantor from the obligations pursuant hereto.

#### Article 10 -RECOURSE

The provisions of Section 12.20 of the Loan Agreement are hereby incorporated by reference into this Security Instrument to the same extent and with the same force as if fully set forth herein.

## Article 11 - NOTICES

All notices or other written communications hereunder shall be delivered in accordance with Section 12.6 of the Loan Agreement.

## Article 12 - APPLICABLE LAW

Section 12.1 GOVERNING LAW. This Security Instrument shall be governed by the laws of the State in which the Property is located with respect to the following: (i) the creation, perfection, and enforcement of the lien of this Security Agreement with respect to Land, interests in Land, Improvements and Fixtures; (ii) the enforcement of the assignment of Leases and Rents and other terms of Section 1.2, (iii) the appointment of a receiver and the terms of any such receivership, and (iv) any other provision of the laws of the State in which the Property is located that is specifically referenced in this Security Instrument. Subject to the foregoing, in all other respects, this Security Instrument shall be governed by the substantive laws of the State of Illinois.

Section 12.2 USURY LAWS. Notwithstanding anything to the contrary, (a) the Loan Documents and all other agreements and communications between Grantor and Administrative Agent or any Lender are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Administrative Agent and Lenders shall never exceed the maximum lawful rate or amount, (b) in calculating whether any interest exceeds the lawful maximum, all such interest shall be amortized, prorated, allocated, and spread over the full amount and term of all principal indebtedness of Grantor to Administrative Agent or any Lender under the Loan Documents; and (c) if through any contingency or event, Administrative Agent or any Lender receives or is deemed to receive interest in excess of the lawful maximum, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Grantor to Administrative Agent or such Lender and not on account of the interest due under the Loan Documents or, if there is no such indebtedness, shall immediately be returned to Grantor.

Section 12.3 PROVISIONS SUBJECT TO APPLICABLE LAW. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable, or not entitled to be recorded, registered, or filed under the provisions of any applicable law. If any term, covenant or condition of the Loan Agreement, the Note, or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Security Instrument shall be construed without such provision.

Section 12.4 WAIVER OF TRIAL BY JURY. **GRANTOR AND ADMINISTRATIVE AGENT (BY ITS ACCEPTANCE HEREOF) HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT, OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THE LOAN**

**EVIDENCED BY THE NOTE, THE APPLICATION FOR THE LOAN EVIDENCED BY THE NOTE, THIS SECURITY INSTRUMENT, THE NOTE, OR THE OTHER LOAN DOCUMENTS OR ANY ACTS OR OMISSIONS OF ADMINISTRATIVE AGENT, ITS OFFICERS, EMPLOYEES, DIRECTORS, OR AGENTS IN CONNECTION THEREWITH.**

#### Article 13 - DEFINITIONS

All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "**Grantor**" shall mean "each Grantor and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "**Lender**" shall mean "Lender and any subsequent holder of the Note," the word "**Administrative Agent**" shall mean "Administrative Agent" and any successor Administrative Agent under the Loan Agreement, the word "**Note**" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "**Property**" shall include any portion of the Property and any interest therein, and the phrases "**attorneys' fees**", "**legal fees**" and "**counsel fees**" shall include any and all attorneys', paralegals' and law clerks' fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Administrative Agent in protecting its interest in the Property, the Leases, and the Rents and enforcing its rights hereunder.

#### Article 14 - MISCELLANEOUS PROVISIONS

Section 14.1 NO ORAL CHANGE. This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged, terminated orally, or by any act or failure to act on the part of Grantor or Administrative Agent, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge, or termination is sought.

Section 14.2 SUCCESSORS AND ASSIGNS. This Security Instrument shall be binding upon and inure to the benefit of Grantor and Administrative Agent and their respective successors and assigns forever.

Section 14.3 HEADINGS, ETC. The headings and captions of various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope, or intent of the provisions hereof.

Section 14.4 NUMBER AND GENDER. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 14.5 SUBROGATION. To the extent proceeds of the Loan have been used to extinguish, extend or renew any indebtedness against the Property, then Administrative Agent shall be subrogated to all of the rights, liens, and interests existing against the Property and held

by the holder of such indebtedness and such former rights, liens, and interests, if any, are not waived, but are continued in full force and effect in favor of Administrative Agent.

Section 14.6 ENTIRE AGREEMENT. The Note, the Loan Agreement, this Security Instrument and the other Loan Documents constitute the entire understanding and agreement among Grantor, Administrative Agent, and Lenders with respect to the transactions arising in connection with the Debt and supersede all prior written or oral understandings and agreements among Grantor, Administrative Agent, and Lenders with respect thereto. Grantor hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Security Instrument, and the other Loan Documents, there are not, and were not, and no persons are or were authorized by Administrative Agent or any Lender to make, any representations, understandings, stipulations, agreements, or promises, oral or written, with respect to the transaction which is the subject of the Note, the Loan Agreement, this Security Instrument, and the other Loan Documents. In the event of any conflict between the terms of this Security Instrument and the terms of the Loan Agreement, the terms of the Loan Agreement shall prevail. A provision in this Security Instrument shall not be deemed to be inconsistent with the Loan Agreement by reason of the fact that no provision in the Loan Agreement covers such provision in this Security Instrument.

Section 14.7 LIMITATION ON ADMINISTRATIVE AGENT'S AND LENDER'S RESPONSIBILITY. No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management, or repair of the Property upon Administrative Agent or any Lender, nor shall it operate to make Administrative Agent or any Lender responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss, injury, or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Administrative Agent or any Lender a "mortgagee in possession."

#### Article 15 - STATE-SPECIFIC PROVISIONS

Section 15.1 Without limiting Administrative Agent's remedies under Article 7 herein or otherwise, at any time after an Event of Default and during the continuance thereof, Lender shall have the right to foreclose the lien of this Security Instrument non-judicially in accordance with the Washington Deed of Trust Act (RCW Ch. 61.24).

Section 15.2 Grantor hereby represents and warrants to Administrative Agent that (a) the Property is not used principally for agricultural purposes, and (b) the Loan secured by this Security Instrument was not made primarily for personal, family or household purposes.

Section 15.3 At Administrative Agent's option, any written notice of default given to Grantor under this Security Instrument or the other Loan Documents may be given in the form of a statutory notice of default under the Washington Deed of Trust Act.

Section 15.4 If this Security Instrument is foreclosed as a mortgage and the Property is sold at a foreclosure sale, the purchaser may during any redemption period allowed, make such

repairs or alterations to the Property and Improvements thereon as may be reasonably necessary for the proper operation, care, preservation, protection and insuring of the Property. Any sums so paid together with interest thereon from the time of such expenditure at the Default Rate shall be added to and become a part of the amount required to be paid for redemption from such sale.

Section 15.5 At any time after an Event of Default and during the continuance thereof, Administrative Agent shall have the right at its option to foreclose this Security Instrument subject to the rights of any tenant or tenants of the Property

Section 15.6 To the extent the Washington Deed of Trust Act, as now existing or hereafter amended, or other statute requires that the "fair market value" or "fair value" of the Property be determined as of the foreclosure date in order to enforce a deficiency against Grantor or any other party liable for repayment of the Obligations, the term "fair market value" or "fair value" shall include those matters required by law and the following additional factors:

(i) The Property shall be valued "as is" and "with all faults" and there shall be no assumption of restoration or refurbishment of Improvements, if any, after the date of the foreclosure.

(ii) An offset to the fair market value or fair value of the Property, as determined hereunder, shall be made by deducting from such value the reasonable estimated closing costs related to the sale of the Property, including but not limited to brokerage commissions, title policy expenses, tax pro-rations, escrow fees, and other common charges that are incurred by the seller of real property.

(iii) Grantor shall pay the costs of any appraisals and other expenses incurred in connection with any such determination of fair market value or fair value.

Section 15.7 To the maximum extent permitted under applicable law, Grantor hereby waives and terminates any homestead rights and/or exemptions respecting the Property under the provisions of any applicable homestead laws, including, without limitation, RCW Chapter 6.13.

Section 15.8 ORAL AGREEMENTS OR ORAL COMMITMENTS TO LEND MONEY, EXTEND CREDIT, OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, THIS DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING has been executed by Grantor as of the day and year first above written.

**GRANTOR:**

**MCP BIRCHVIEW WA PROPCO LLC,**  
a Texas limited liability company

By:   
Print Name: Michael Graham  
Its: President

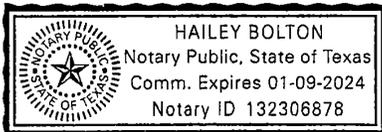
STATE OF Texas )  
COUNTY OF Dallas )

Before me, Hailey Bolton, a Notary Public in and for the County and State aforesaid, personally appeared Michael Graham, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the President of MCP BIRCHVIEW WA PROPCO LLC, a Texas limited liability company, and that he as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as President.

Witness my hand and seal this 29 day of June, 2020.

  
Notary Public

My Commission Expires: 1-9-2024



**EXHIBIT A****LEGAL DESCRIPTION**

Real property in the City of Sedro-Woolley, County of Skagit, State of Washington, described as follows:

Lots 1 – 15, inclusive, and Lots 17 – 30, inclusive, Block 115, "Plat of the Town of Sedro" as per plat recorded in Volume 1 of Plats, Page 18, Records of Skagit County, Washington.

Together with those portions of vacated Woods Avenue, Graves Street also known as Fairhaven Street and the Alley located in said Block pursuant to City of Sedro-Woolley Ordinance No. 1253-96, dated February 12, 1996, which attached to the premise by operation of law.