

After Recording Mail To:
Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114
Attn: William R. Weir

**FIRST AMENDMENT TO (I) DEED OF TRUST,
ASSIGNMENT OF RENTS, SECURITY AGREEMENT
AND FIXTURE FILING, AND (II) ASSIGNMENT OF LEASES AND RENTS**

Washington State County Auditor's/Recorder's Information (RCW 65.04):

Document Reference: 202107160046, 202107160047

Grantor: VWA – Mount Vernon, LLC, an Ohio limited liability company

Grantee: First American Title Insurance Company, a Nebraska corporation

Grantee: The Huntington National Bank, a national banking association

**Abbreviated Legal
Descriptions:**

Lot A of MV BLA No. ENGR21-0250 recorded as AFN
202109170120 in the W ½ SW ¼ S.20, T.34N., R. 4 E., W.M

Full legal description is attached as **Exhibit A** hereto.

Assessor's Property Tax

Parcel Account Numbers: P134974/8100-000-006-0000

THIS INSTRUMENT IS A UNIFORM COMMERCIAL CODE FINANCING STATEMENT WHICH IS BEING FILED AS A FIXTURE FILING IN ACCORDANCE WITH SECTION 62A.9A-502 OF THE UNIFORM COMMERCIAL CODE AS ADOPTED BY THE STATE OF WASHINGTON AND SET FORTH IN RCW 62A.9A-502. THE COLLATERAL IS DESCRIBED HEREIN, SOME OF WHICH IS OR MAY BECOME FIXTURES ON THE REAL ESTATE DESCRIBED HEREIN.

**FIRST AMENDMENT TO (I) DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING, AND (II) ASSIGNMENT OF
LEASES AND RENTS**

This *First Amendment to (I) Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, and (II) Assignment of Leases and Rents* (this "Amendment") is made this December 14, 2021 (the "Effective Date"), by and among VWA – Mount Vernon, LLC, an Ohio limited liability company with a principal address at 30050 Chagrin Boulevard, Suite 360, Pepper Pike, Ohio 44124-5774 ("Grantor"), in favor of First American Title Insurance company (the "Trustee"), for benefit of The Huntington National Bank, a national banking association, with a place of business and address at 200 Public Square, Cleveland, Ohio 44114 ("Huntington" or the "Grantee" which terms shall include Huntington, its successors and assigns, and collectively with Grantor and Trustee, the "Parties").

RECITALS:

WHEREAS, pursuant to the terms of a *Construction Loan Agreement* by and between Grantor and Grantee dated July 1, 2021 (as amended from time to time, the "Loan Agreement"), Grantee made a loan (the "Loan") to Grantor in the original principal amount of \$21,370,000.00, which Loan is evidenced by a *Promissory Note* dated July 1, 2021 (as amended, restated, replaced, extended, or otherwise modified from time to time, the "Note"); and

WHEREAS, as security for the Note, Grantor executed and delivered to Trustee, for benefit of Grantee, among other things a certain *Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing* dated as of July 1, 2021, and filed of record with the Skagit County, Washington Recorder on July 16, 2021, as **Instrument #202107160046** (as amended from time to time, the "Deed of Trust"); (b) a certain *Assignment of Leases and Rents* dated as of July 1, 2021, and filed of record with the Skagit County, Washington Recorder on July 16, 2021, as **Instrument #202107160047** (as amended from time to time, but most recently by the First Amendment (defined below), the "Assignment of Leases," and together with the Deed of Trust, the "Security Instruments"); and (c) certain other loan documents, agreements, instruments and financing statements in connection with the Loan (all of the foregoing, together with the Note and Loan Agreement are hereinafter collectively referred to as the "Loan Documents"); and

WHEREAS, the Security Instruments grant, bargain, sell, convey, mortgage and warrant to Trustee, in trust for the benefit of Huntington, with power of sale and with right of entry and possession, all estate, right, title and interest which Grantor now has or may later acquire in and to the Mortgage Property, as defined in the Deed of Trust; and

WHEREAS, the Parties desire to amend the Security Instruments to modify the legal description of the Property (as now defined below) to reflect the filing of that certain *Station Square SRH Boundary Line Adjustment* filed on September 17, 2021, with the Skagit County, Washington Recorder as **Instrument #202109170120**.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and promises contained herein, the receipt and sufficiency of which are hereby acknowledged, and

intending to be legally bound, the parties hereto for themselves and their successors and assigns do hereby agree, represent and warrant as follows:

AGREEMENT:

1. **Recitals: Incorporation.** The above Recitals are true and accurate and form a material part of this Amendment, and are therefore incorporated by reference into this Section 1. All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Deed of Trust or the Loan Agreement as defined herein.

2. **Amendments to Security Instruments.**

a. All references in the Deed of Trust to **Exhibit A** are hereby amended to mean that certain **Exhibit A** attached hereto.

b. All references in the Deed of Trust to **Exhibit B** are hereby amended to mean that certain **Exhibit B**, attached hereto.

c. All references in the Assignment of Leases to **Exhibit A** are hereby amended to mean that certain **Exhibit A** attached hereto.

3. **Granting Clause:** Grantor hereby irrevocably and unconditionally grants, bargains, sells, conveys, mortgages and warrants to Trustee, in trust for the benefit of Huntington, with power of sale and with right of entry and possession, all estate, right, title and interest which Grantor now has or may later acquire in and to the Mortgaged Property (as now defined below).

4. **Mortgaged Property.**

a. Grantor and Grantee agree that the definition of "Mortgaged Property" is deleted in its entirety and replaced with the following:

"All of Grantor's right, title and interest, whether such right, title and interest be in the nature of a fee interest, leasehold interest, lien interest or otherwise, presently held, hereafter declared or determined to be presently or in the future held or hereafter acquired by the Grantor, in and to that certain real property situated in the State of Washington, County of Skagit, and City of Mount Vernon, being more fully described in **Exhibit A** hereto and by this reference made a part hereof (the '**Property**'), together with the following, whether now owned or hereafter acquired by Grantor: (a) all improvements now or hereafter attached to or placed, erected, constructed or developed on the Property (collectively the '**Improvements**'); (b) all fixtures, furnishings, equipment, inventory, and other articles of personal property (collectively the '**Personal Property**') that are now or hereafter attached to or used in or about the Improvements or that are necessary or useful for the complete and comfortable use and occupancy of the Improvements for the purposes for which they were or are to be attached, placed, erected, constructed or developed or that may be used

in or related to the planning, development, financing or operation of the Improvements, and all renewals of or replacements or substitutions for any of the foregoing, whether or not the same are or shall be attached to the Improvements or the Property; (c) all water and water rights, littoral rights, riparian rights, timber, crops, and mineral interests pertaining to the Property; (d) all building materials and equipment now or hereafter delivered to and intended to be installed in or on the Improvements or the Property, all of which materials and equipment shall be deemed to be included in the Mortgaged Property immediately after delivery to the Property; (e) all plans and specifications for the Improvements; (f) all contracts relating to the Property, the Improvements or the Personal Property, including without limitation any leases for telephone equipment, communication and call signaling equipment, televisions, television antenna systems, radios, speakers, electronic equipment for guest billings and reservations, or other equipment; (g) all deposits, bank accounts, funds, documents, contract rights, accounts, commitments, construction agreements, architectural agreements, general intangibles (including, without limitation, trademarks, trade names and symbols), instruments, notes and chattel paper arising from or by virtue of any transactions related to the Property, the Improvements or the Personal Property; (h) all permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Property, the Improvements or the Personal Property; (i) all proceeds arising from or by virtue of the sale, lease or other disposition of the Property, the Improvements, the Personal Property or any portion thereof or interest therein; (j) all proceeds (including, without limitation, premium refunds) of each policy of insurance relating to the Property, the Improvements or the Personal Property; (k) all proceeds from the taking of any of the Property, the Improvements, the Personal Property or any rights appurtenant thereto by right of eminent domain or by private or other purchase in lieu thereof (including, without limitation, change of grade of streets, curb cuts or other rights of access), for any public or quasi-public use under any law; (l) all right, title and interest of Grantor in and to all streets, roads, public places, easements and rights of way, existing or proposed, public or private, adjacent to or used in connection with, belonging or pertaining to the Property; (m) all of the leases, licenses, franchise agreements, occupancy agreements, rents (including without limitation, room rents), royalties, bonuses, issues, profits, revenues or other benefits of the Property, the Improvements or the Personal Property, including, without limitation, cash or securities deposited pursuant to leases to secure performance by the lessees of their obligations thereunder; (n) all consumer goods located in, on or about the Property or the Improvements or used in connection with the use or operation thereof; (o) all easements, strips, gores, rights, hereditaments and appurtenances pertaining to the foregoing and estates and rights in reversion or remainder; (p) all 'equipment' as that term is defined in the Washington Uniform Commercial Code as presently or hereafter in effect, all 'goods' as that term is defined in the Washington Uniform Commercial Code as presently or hereafter in effect and all 'accounts' as that term is defined in the Washington Uniform Commercial Code as presently or hereafter in effect; and (q) other interests of every kind and character that Grantor now has or at any time hereafter acquires in

and to the Property, Improvements, and Personal Property described herein and all property that is used or useful in connection therewith, including rights of ingress and egress and all reversionary rights or interests of Grantor with respect thereto."

b. The second (2nd) full paragraph of the Mortgage (beginning "TO HAVE AND TO HOLD . . .") is deleted in its entirety and replaced with the following:

"TO HAVE AND TO HOLD the Mortgaged Property, together with the rights, privileges, powers and appurtenances thereto belonging, unto Huntington and its successors and assigns forever, and Grantor does hereby covenant with Huntington that Grantor is well seized of the Property as a good and indefeasible estate in fee simple, and has good right to bargain, sell, and convey the same in manner and forms above written, that the Property is free and clear from all encumbrances whatsoever and the claim or claims of all persons claiming or to claim the same or any part thereof, except for the Leases and for those matters described in Exhibit B attached hereto and by this reference made a part hereof (collectively, the 'Permitted Encumbrances'), that Grantor is well seized of the Mortgaged Property (other than the Property) and has good right to bargain, sell and convey the same in the manner and forms above written, and Grantor warrants and will defend the Mortgaged Property to Huntington, forever against all lawful claims and demands whatsoever, except as set forth above."

5. Conditions of Effectiveness. This Amendment shall become effective upon satisfaction of all of the following conditions precedent:

- a. The Grantee shall have received a duly executed copy of this Amendment.
- b. This Amendment shall have been filed of record with the Skagit County, Washington Recorder.
- c. Grantee shall have received such endorsements to its ALTA loan policy of title insurance as Grantee may reasonably request.

6. No Claims by Grantor. Grantor hereby declares that it has no setoffs, counterclaims, defenses or other causes of action against Grantee arising out of the Loan or any documents mentioned herein; and to the extent any such setoffs, counterclaims, defenses or other causes of action may exist, whether known or unknown, such items are hereby waived by Grantor.

7. Authority. The Grantor hereby represents and warrants to the Grantee that (a) the Grantor has legal power and authority to execute and deliver the Amendment; (b) the person executing the Amendment on behalf of the Grantor has been duly authorized to execute and deliver the same and bind the Grantor with respect to the provisions provided for herein; (c) the

execution and delivery of this Amendment by the Grantor and the performance and observance by the Grantor of the provisions of this Amendment do not violate or conflict with the articles of organization or operating agreement of the Grantor or any law applicable to the Grantor or result in the breach of any provision of or constitute a default under any agreement, instrument or document binding upon or enforceable against the Grantor; and (d) this Amendment constitutes a valid and legally binding obligation upon the Grantor in every respect.

8. Counterparts. This Amendment may be executed in two or more counterparts, each of which, when so executed and delivered, shall be an original, but all of which together shall constitute one and the same document. Separate counterparts may be executed with the same effect as if all parties hereto had executed the same counterparts.

9. Costs and Expenses. The Grantor agrees to pay on demand in accordance with the terms of the Loan Agreement all costs and expenses of the Grantee in connection with the preparation, reproduction, execution and delivery of this Amendment and all other loan documents entered into in connection herewith, including the fees and out-of-pocket expenses of the Grantee's counsel with respect thereto.

10. Governing Law. This Amendment shall be governed by and construed in accordance with the law of the State of Washington.

11. IMPORTANT INFORMATION ABOUT PROCEDURES REQUIRED BY THE USA PATRIOT ACT. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each entity or person who opens an account or establishes a relationship with Grantee.

What this means: When an entity or person opens an account or establishes a relationship with Grantee, Grantee may ask for the name, address, date of birth, and other information that will allow the Grantee to identify the entity or person who opens an account or establishes a relationship with Grantee. Grantee may also ask to see identifying documents for the entity or person.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK—
SIGNATURE PAGE TO IMMEDIATELY FOLLOW]

IN WITNESS WHEREOF, Grantor has caused this Instrument to be executed as of the Effective Date, but actually executed on the date set forth in the notary acknowledgments attached hereto.

GRANTOR:

VWA – Mount Vernon, LLC, an Ohio limited liability company

By: Dominic A. Visconsi, Jr.
Dominic A. Visconsi, Jr., Manager

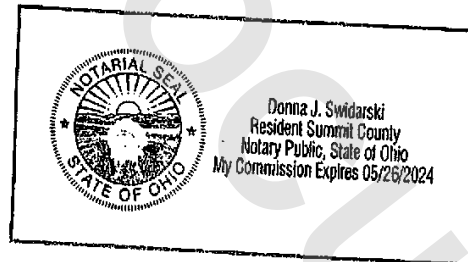
STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

This is an acknowledgment clause. No oath or affirmation was administered to the signer.

The foregoing instrument was acknowledged before me this 2nd day of December, 2021, Dominic A. Visconsi, Jr., a Manager of VWA – Mount Vernon, LLC, an Ohio limited liability company, on behalf of the limited liability company.

Donna J. Swidarski
Notary Public

My Commission Expires: 5-26-24



IN WITNESS WHEREOF, Grantee has caused this Instrument to be executed as of the Effective Date, but actually executed on the date set forth in the notary acknowledgments attached hereto.

GRANTEE:

**The Huntington National Bank, a national
banking association**

By: Julie L. Felske
Julie L. Felske, Authorized Signer

STATE OF OHIO

COUNTY OF Franklin

) SS.
)

This is an acknowledgment clause. No oath or affirmation was administered to the signer.

The foregoing instrument was acknowledged before me this 2nd day of December, 2021, by Julie L. Felske, an Authorized Signer of The Huntington National Bank, a national banking association, on behalf of the bank.

Angela M. Smith
Notary Public

My Commission Expires: 09/09/2024

This instrument prepared by:
Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114
Attention: William R. Weir



ANGELA M SMITH
Notary Public, State of Ohio
My Comm. Expires 09/09/2024
Recorded in Franklin County

Signature Page 2 of 2 to

First Amendment To (I) Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, and (II) Assignment of Leases and Rents

EXHIBIT A
(Legal Description)

Lot A of City of Mount Vernon Boundary Line Adjustment No. ENGR21-0250, entitled "Station Square SRH Boundary Line Adjustment", approved September 13, 2021 and recorded September 17, 2021 as Skagit County Auditor's File No. 202109170120; being portions of City of Mount Vernon Boundary Line Adjustment No. ENGR 19-0308 recorded as Skagit County Auditor's File No. 201910040056; being portions of the West 1/2 of the Southwest 1/4 of Section 20, Township 34 North, Range 4 East, W.M.

Tax numbers: P134974/8100-000-006-0000

Exhibit B
(Permitted Encumbrances)

1. Taxes and assessments for the first half of 2022 and subsequent years, not yet due and payable.
2. Those Items appearing on Schedule B of Huntington's Loan Policy of Title Insurance issued by First American Title Insurance Company.
3. The Disposition Agreement.
4. The Public Benefits Agreement.