

## Name &amp; Return Address:

Dennis R. Tyler, Attorney at LawP.O. Box 368, Legal Dept. #1704Indianapolis, IN 46206-0368**First Am NCS-1162905****Washington State Recorder's Cover Sheet** (RCW 65.04) Please print legibly or type information.

<b>Document Title(s)</b> Deed of Trust, Assignment of Rents and Leases, Security Agreement & UCC Fixture Filing
<b>Grantor(s)</b> Cross Court Plaza - BWC LLC, Cross Court Plaza - CPL LLC & Cross Court Plaza EC LLC  ____ Additional Names on Page ____ of Document
<b>Grantee(s)</b> American United Life Insurance Company <b>Trustee: First American Title Insurance Company</b> ____ Additional Names on Page ____ of Document
<b>Legal Description</b> (Abbreviated: i.e., lot, block & subdivision name or number OR section/township/range and quarter/quarter section)  PTN NE, 06-34-04  Complete Legal Description on Page <u>2-5</u> of Document
<b>Auditor's Reference Number(s)</b>
<b>Assessor's Property Tax Parcel/Account Number(s)</b> P23694 & P23720

This Document Was Prepared By  
And Upon Recording Return To:

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American United Life Insurance Company  
One American Square  
Post Office Box 368  
Indianapolis, Indiana 46206-0368  
(317) 285-1877

Assessor's Parcel No(s): P23694 & P23720

Abbreviated Legal Description: PTN NE, 06-34-04

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

THIS DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND UCC FIXTURE FILING (hereinafter called this "Deed of Trust") is made this 24<sup>th</sup> day of April, 2023, between CROSS COURT PLAZA – BWC LLC, a Texas limited liability company, having an address and principal place of business at 1717 Woodstead Court, Suite 298, The Woodlands, Texas 77380, Attn: Benjamin J. Cheng, CROSS COURT PLAZA – CPL LLC, a Texas limited liability company, having its principal office at 1717 Woodstead Court, Suite 298, The Woodlands, Texas 77380, Attn: Benjamin J. Cheng and CROSS COURT PLAZA – EC LLC, a Texas limited liability company, having its principal office at 1717 Woodstead Court, Suite 298, The Woodlands, Texas 77380, Attn: Benjamin J. Cheng, as tenants in common (hereinafter individually "Grantor" and collectively "Grantors"), FIRST AMERICAN TITLE INSURANCE COMPANY, a Nebraska corporation, having an office at 920 5<sup>th</sup> Avenue, Suite 1200, Seattle, WA 98104 (hereinafter called "Trustee") and AMERICAN UNITED LIFE INSURANCE COMPANY, an Indiana corporation, having its principal offices in Indianapolis, Indiana and an address at One American Square, Post Office Box 368, Indianapolis, Indiana 46206-0368 (hereinafter called "Beneficiary"). For the purpose of Article 9A of the Uniform Commercial Code (RCW 62A.9A-102), Grantors are the Debtor, Beneficiary is the secured party and this Deed of Trust constitutes a Financing Statement.

**WITNESSETH:**

WHEREAS, Grantors are indebted to Beneficiary in the principal sum of EIGHT MILLION FOUR HUNDRED THOUSAND and 00/100 Dollars (\$8,400,000.00) for money loaned, as evidenced by one certain promissory note of even date herewith (hereinafter referred to as the "Note"), with interest from the date thereof at the rate of six and 12/100 percent (6.12%) per

annum on the unpaid balance until maturity, principal and interest being payable at the office of Beneficiary in Indianapolis, Indiana, or at such other place as the holder of the Note may designate in writing delivered or mailed to Grantors, in monthly installments of FIFTY-FOUR THOUSAND SEVEN HUNDRED THIRTY-NINE and 16/100 Dollars (\$54,739.16) commencing on the first day of June, 2023 and continuing on the first day of each month thereafter until principal and interest are fully paid, except that the final payment of the entire indebtedness herein secured, if not sooner paid, is due and payable on the first day of May, 2033. Interest on unpaid principal after maturity is at the rate of ten and 12/100 percent (10.12%) per annum (hereinafter the "Default Rate").

WHEREAS, the indebtedness secured by this Deed of Trust includes, without limitation, the indebtedness evidenced by the Note, including the principal thereof and interest and premium, if any, thereon, and any extensions and renewals thereof, in whole or in part, and any and all other sums which may be at any time due or owing or required to be paid as provided in this Deed of Trust or in the Note or any other document securing the Note, all of which indebtedness is hereinafter referred to collectively as the "Indebtedness Hereby Secured".

NOW THEREFORE, in consideration of the Indebtedness Hereby Secured and the sum of One and 00/100 Dollar (\$1.00) cash in hand paid, the receipt of which is hereby acknowledged, Grantors subject to the Permitted Exceptions (as hereinafter defined) irrevocably GRANT, BARGAIN, SELL, CONVEY, TRANSFER, AND ASSIGN TO TRUSTEE, IN TRUST, WITH POWER OF SALE, each as to their undivided interest as tenants in common, all that land (hereinafter called the "Land") and real property situated in the County of Skagit, State of Washington, more particularly designated and described as follows, to-wit:

PARCEL A:

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 34 NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 6;

THENCE NORTH 00°17'42" EAST ALONG THE EAST LINE OF SAID SUBDIVISION A DISTANCE OF 273.81 FEET;

THENCE NORTH 89°42'21" WEST A DISTANCE OF 50.00 FEET TO THE INTERSECTION OF THE WEST LINE OF THAT CERTAIN TRACT OF LAND CONVEYED TO THE CITY OF BURLINGTON, UNDER AUDITOR'S FILE NO. 8604020016, RECORDS OF SKAGIT COUNTY, WASHINGTON (HEREAFTER KNOWN AS THE CITY TRACT) BEING BURLINGTON BOULEVARD (FORMERLY KNOWN AS GARL STREET) AND THE TRUE POINT OF BEGINNING;

THENCE CONTINUE NORTH 89°42'21" WEST A DISTANCE OF 81.95 FEET;

THENCE NORTH 76°11'58" WEST A DISTANCE OF 25.81 FEET;

THENCE NORTH 89°42'21" WEST A DISTANCE OF 145.00 FEET;

THENCE SOUTH 00°17'42" WEST A DISTANCE OF 168.00 FEET:

THENCE SOUTH 24°05'48" EAST A DISTANCE OF 27.67 FEET;

THENCE SOUTH 00°17'42" WEST A DISTANCE OF 25.50 FEET TO THE INTERSECTION OF THE SOUTH LINE OF TRACT 2, AS PER BOUNDARY LINE ADJUSTMENT RECORDED IN VOLUME 10 OF SURVEYS, PAGES 51 AND 52, UNDER AUDITOR'S FILE NO. 9007100003, RECORDS OF SKAGIT COUNTY, WASHINGTON;

THENCE SOUTH 88°50'37" EAST, ALONG SAID SOUTH LINE A DISTANCE OF 222.53 FEET TO A POINT OF CURVATURE TO THE LEFT;

THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A RADIUS OF 29.50 FEET THROUGH A CENTRAL ANGLE OF 37°39'38" AN ARC DISTANCE OF 19.39 FEET TO THE INTERSECTION OF THE WEST RIGHT-OF-WAY MARGIN OF SAID CITY TRACT;

THENCE NORTH 00°17'42" EAST ALONG THE WEST LINE OF SAID CITY TRACT A DISTANCE OF 210.15 FEET TO THE TRUE POINT OF BEGINNING;

(ALSO KNOWN AS PARCEL A OF THAT SURVEY RECORDED IN VOLUME 11 OF SURVEYS, PAGES 122 AND 123, UNDER AUDITOR'S FILE NO. 9107100065, RECORDS OF SKAGIT COUNTY, WASHINGTON.)

SITUATED IN SKAGIT COUNTY, WASHINGTON

PARCEL B:

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 34 NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 6;

THENCE NORTH 00°17'42" EAST ALONG THE EAST LINE OF SAID SUBDIVISION A DISTANCE OF 657.12 FEET TO A POINT THAT IS 10.00 FEET SOUTH AS MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID NORTHEAST QUARTER OF SECTION 6;

THENCE NORTH 88°59'14" WEST, PARALLEL WITH SAID NORTH LINE A DISTANCE OF 69.75 FEET TO THE INTERSECTION OF THE WEST LINE OF THAT CERTAIN TRACT OF LAND CONVEYED TO THE CITY OF BURLINGTON UNDER AUDITOR'S FILE NO. 8604020016, RECORDS OF SKAGIT COUNTY, WASHINGTON (HEREAFTER KNOWN AS THE CITY TRACT) BEING BURLINGTON BOULEVARD (FORMERLY KNOWN AS GARL STREET), SAID INTERSECTION BEING THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 88°59'14" WEST A DISTANCE OF 540.05 FEET;

THENCE SOUTH 01°00'46" WEST A DISTANCE OF 29.00 FEET;

THENCE SOUTH 01°24'07" EAST A DISTANCE OF 23.02 FEET;

THENCE SOUTH 01°00'46" WEST A DISTANCE OF 125.00 FEET;

THENCE NORTH 88°59'14" WEST A DISTANCE OF 10.83 FEET;

THENCE SOUTH 01°00'46" WEST A DISTANCE OF 167.17 FEET;

THENCE SOUTH 88°59'14" EAST A DISTANCE OF 6.33 FEET;

THENCE SOUTH 01°00'46" WEST A DISTANCE OF 44.22 FEET;

THENCE NORTH 50°37'51" EAST A DISTANCE OF 165.79 FEET;

THENCE SOUTH 00°17'42" WEST A DISTANCE OF 93.34 FEET;

THENCE SOUTH 89°42'21" EAST A DISTANCE OF 51.97 FEET;

THENCE SOUTH 00°17'42" WEST A DISTANCE OF 225.57 FEET TO THE INTERSECTION OF THE SOUTH LINE OF TRACT 2 OF THE BOUNDARY LINE ADJUSTMENT RECORDED IN VOLUME 10 OF SURVEYS, PAGES 51 AND 52, UNDER AUDITOR'S FILE NO. 9007100003, RECORDS OF SKAGIT COUNTY, WASHINGTON;

THENCE SOUTH 88°50'37" EAST ALONG SAID SOUTH LINE A DISTANCE OF 147.96 FEET;

THENCE NORTH 00°17'42" EAST A DISTANCE OF 25.50 FEET;

THENCE NORTH 24°05'48" WEST A DISTANCE OF 27.67 FEET;

THENCE NORTH 00°17'42" EAST A DISTANCE OF 168.00 FEET;

THENCE SOUTH 89°42'21" EAST A DISTANCE OF 145.00 FEET;

THENCE SOUTH 76°11'58" EAST A DISTANCE OF 25.81 FEET;

THENCE SOUTH 89°42'21" EAST A DISTANCE OF 81.95 FEET TO THE WESTERLY MARGIN OF SAID CITY TRACT;

THENCE NORTH 00°17'42" EAST ALONG SAID WESTERLY MARGIN A DISTANCE OF 364.19 FEET TO A POINT OF CURVATURE TO THE LEFT;

THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET THROUGH A CENTRAL ANGLE OF 89°16'56" AN ARC DISTANCE OF 31.17 FEET TO THE TRUE POINT OF BEGINNING;

(ALSO KNOWN AS PARCEL B OF THAT SURVEY RECORDED IN VOLUME 11 OF SURVEYS, PAGES 122 AND 123, UNDER AUDITOR'S FILE NO. 910710065, RECORDS OF SKAGIT COUNTY, WASHINGTON.)

**PARCEL C:**

AN EASEMENT FOR INGRESS, EGRESS, AND PARKING AS DESCRIBED IN THAT CERTAIN EASEMENT DATED AUGUST 1, 1991, BETWEEN DAYTON HUDSON CORPORATION AND WINMAR CASCADE, INC., RECORDED AUGUST 1, 1991, UNDER AUDITOR'S FILE NO. 9108010068, RECORDS OF SKAGIT COUNTY, WASHINGTON.

SITUATED IN SKAGIT COUNTY, WASHINGTON

TOGETHER WITH (i) all buildings, structures and other improvements now or hereafter on the Land, and all lighting, heating, ventilating, air conditioning, sprinkling and plumbing fixtures, water rights, water and power systems, engines and machinery, boilers, furnaces, oil burners, elevators and motors, communication systems, dynamos, transformers, electrical equipment, and all other fixtures of every description now or hereafter found or used upon or appurtenant to the Land, buildings and other improvements and collateral, provided, however, trade fixtures and other personal property of any tenant (as contrasted with fixtures for the use and operation of the improvements) now or hereafter installed are not intended to be included in this conveyance unless abandoned; (ii) all tenements, hereditaments, easements, rights and appurtenances thereunto belonging or in any way appertaining, and the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits; and (iii) all rights of Grantors in and to the land lying in the streets in front of and adjoining the Land and the easements appurtenant to the ownership of the Land to the center line of said streets; all of the foregoing Land, real estate and property, and collateral, whether affixed or annexed or not, is hereinafter referred to collectively as the "Premises" and shall, for the purposes of this Deed of Trust, be deemed conclusively to be real property and conveyed hereby.

TO HAVE AND TO HOLD the Premises with all the rights, privileges and appurtenances thereunto belonging, unto Trustee, its successors and assigns, in trust, and for the purpose of securing the payment of the Indebtedness Hereby Secured and the performance of the covenants and agreements herein and in the Note or any other document securing the Note. Grantors covenant, represent and warrant with and to Trustee and Beneficiary that Grantors have good and marketable title to the Premises in fee simple, Grantors have the right to convey the same, and the Premises is free and clear of all liens and encumbrances except the following (collectively, the "Permitted Exceptions"):

- (i) taxes and assessments not yet due and payable;
- (ii) easements and restrictions of record in Skagit County, Washington; and
- (iii) leases of the Premises previously disclosed to Beneficiary;

and Grantors will warrant and forever defend the title to the Premises against the lawful claims of all persons whomsoever.

To protect the Premises and security granted by this Deed of Trust, Grantors do hereby covenant and agree with Beneficiary and Trustee as follows:

1. Payment of Indebtedness. Grantors will duly and punctually pay the Indebtedness Hereby Secured in accordance with the terms of the Note and this Deed of Trust and any other document securing the Note. The provisions of the Note are hereby incorporated by reference into this Deed of Trust as fully as if set forth at length herein.

2. Maintenance, Repair and Restoration of Improvements, Payment of Prior Liens, etc. Grantors will (a) promptly repair, restore or rebuild any buildings or other improvements now or hereafter on the Land which may become damaged or be destroyed; (b) keep the Premises in good condition and repair, subject to ordinary wear and tear but without waste, reasonable wear and tear excepted and free from mechanic's liens or other liens or claims for lien not expressly subordinated to the lien hereof; (c) pay when due any indebtedness which may be secured by a lien or charge on the Premises superior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such prior lien to Beneficiary; (d) complete within a reasonable time any building or buildings now or at any time in process of erection upon the Land; (e) make no material alterations or improvements in the Premises except such as may be required by law or municipal ordinance; (f) suffer or permit no change in the general nature of the occupancy of the Premises without the written consent of Beneficiary, not to be unreasonably withheld, conditioned or delayed; and (g) initiate or acquiesce in no zoning reclassification, without the written consent of Beneficiary not to be unreasonably withheld, conditioned or delayed.

3. Payment of Charges Against the Premises and Contest Thereof. Grantors will pay, before a fine or penalty might attach for nonpayment thereof, all taxes, assessments, water charges, sewer charges and all other charges and impositions whatsoever levied upon or assessed, placed or made against the Premises, including assessments on appurtenant water stock, it being understood, however, that assessments may be paid in installments so long as no fine or penalty is added to any installment for the nonpayment thereof. Grantors will furnish to Beneficiary, within thirty (30) days after their respective due dates, copies of official receipts or other proof of payment satisfactory to Beneficiary of all such taxes, assessments and other charges and impositions. Grantors likewise will pay all taxes, assessments and other charges and impositions levied upon or assessed, placed or made against, or measured by, this Deed of Trust, or the recordation hereof, or the Note, or the Indebtedness Hereby Secured.

Grantors shall not be required to pay any tax, assessment or other charge or imposition referred to above, so long as Grantors (1) shall contest, in good faith, the existence, amount or the validity thereof, the amount of damages caused thereby or the extent of its liability therefor, by appropriate proceedings which shall operate during the pendency thereof to prevent (i) the collection of, or other realization upon, the tax, assessment or charge or imposition so contested, (ii) the sale,

forfeiture or loss of the Premises or any part thereof, and (iii) any interference with the use or occupancy of the Premises or any part thereof; and (2) shall give such reasonable security to Beneficiary as may be demanded by Beneficiary to insure compliance with the foregoing provisions of this paragraph.

Unless otherwise waived by Beneficiary as set forth herein, Grantors shall make monthly deposits with Beneficiary, in a non-interest bearing account, together with and in addition to interest and principal, in amounts determined by Beneficiary to be sufficient to accumulate in such account adequate funds to pay taxes and assessments levied against the Premises at least sixty (60) days prior to their respective due dates. The amount of such taxes and assessments, when unknown, shall be estimated by Beneficiary. Such deposits shall be used by Beneficiary to pay such taxes and assessments when due. Any insufficiency of such account to pay such charges when due shall be paid by Grantors to Beneficiary on demand. If, by reason of any default by Grantors under any provision of this Deed of Trust, Beneficiary declares the Indebtedness Hereby Secured to be due and payable, Beneficiary may then apply any funds in said account against the Indebtedness Hereby Secured. The enforceability of the covenants relating to taxes and assessments herein otherwise provided shall not be affected except insofar as those obligations have been met by compliance with this paragraph. Beneficiary may from time to time, at its option, waive, and after any such waiver reinstate, any or all provisions hereof requiring such deposits, by notice to Grantors in writing. While any such waiver is in effect, Grantors shall pay taxes and assessments as herein elsewhere provided.

4. Insurance, Application of Proceeds, etc. Grantors will keep all buildings and other improvements now or hereafter on the Land insured under prepaid all risk or special form property insurance policies (or, if such coverage is not then available, such other substantially equivalent coverage as is then available), including replacement cost endorsements and such other policies as are necessary to insure against loss or damage by fire, tornado, earthquake (if the Land is located in seismic zones 3 or 4), flood (if the Land is located in a flood zone), terrorism, hurricane, sprinklers, pollution and the perils insured against by the standard extended coverage and vandalism and malicious mischief endorsements, and such other hazards as may reasonably be required by Beneficiary, in amounts sufficient to prevent any insured from becoming a co-insurer of a partial loss thereunder, but in any event not less than one hundred percent (100%) of full replacement value of the improvements. Grantors shall also provide boiler and machinery insurance, if applicable, business interruption coverage, extra expense, rent loss or rental value insurance providing for payment of rent from the Premises in the event of casualty for a period of not less than twelve (12) months at one hundred percent (100%) occupancy, following the date of such casualty, "Ordinance or Law" coverage, and such other insurance as may be required by terms of any lease of the Premises or as reasonably required by Beneficiary. All policies of insurance to be furnished hereunder shall be in amounts, forms and companies satisfactory to Beneficiary and shall contain standard form of mortgagee clauses, without contribution, in favor of and in form satisfactory to Beneficiary, including a provision requiring that the coverage evidenced thereby shall not be terminated or materially modified without thirty (30) days prior written notice to Beneficiary. Grantors shall deliver all policies or duplicates (or the underlying policies in the case of blanket insurance) to Beneficiary with annual premiums paid as additional security. The



proceeds of all policies of insurance required under this Deed of Trust are hereby assigned to Beneficiary and shall be paid to Beneficiary. In the case of insurance about to expire, Grantors shall deliver: i) prior to expiration of the current insurance coverage, a written statement (email or fax acceptable) from an authorized insurance representative that renewal coverage identical to or better than the current expiring coverage has been bound; ii) within seven (7) days after renewal, certificates or binders of such insurance; iii) within thirty (30) days after renewal, receipts for payment of all annual premiums due; and iv) within sixty (60) days after renewal, all policies of insurance described in the delivered certificates and binders and otherwise satisfying the requirements of this Deed of Trust. Should there be a default in Grantors' obligations to procure or provide evidence of coverage as required herein, Beneficiary may procure such insurance as it may elect and may make payment of annual premiums thereon, which payment shall be repayable immediately upon demand and shall be added to and become part of the Indebtedness Hereby Secured. In no event and whether or not default hereunder has occurred shall Beneficiary, by the fact of approving, accepting or obtaining such insurance, incur any liability for the amount of such insurance, the form or legal sufficiency of insurance contracts, solvency of insurers, or payment of losses by insurers, and Grantors hereby expressly assume full responsibility therefor and liability, if any, thereunder. In the event of foreclosure of this Deed of Trust or other transfer of title to the Premises in extinguishment of the Indebtedness Hereby Secured, all right, title and interest of Grantors in and to any insurance policies then in force shall pass to the purchaser or grantee.

Grantors will also provide Beneficiary with evidence of commercial general liability insurance coverage in insurance companies satisfactory to Beneficiary in amounts of not less than One Million and 00/100 Dollars (\$1,000,000.00) for any one occurrence and Two Million and 00/100 Dollars (\$2,000,000.00) in the aggregate. In addition, Grantors will maintain in force an excess liability or umbrella policy in the amount of Three Million and 00/100 Dollars (\$3,000,000.00) and, for properties upon which liquor is sold, a liquor liability endorsement is required. Certificates or other satisfactory evidence of such coverage shall be furnished to Beneficiary at least thirty (30) days prior to the expiration date of any policy. If such insurance required by any lease of the Premises is greater than the foregoing, the requirements of such lease will control.

Grantors shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Beneficiary is included thereon under a standard mortgagee clause acceptable to Beneficiary. Grantors shall immediately notify Beneficiary whenever any such separate insurance is taken out and shall promptly deliver to Beneficiary the policy or policies of such insurance.

Grantors will give Beneficiary prompt notice of damage to or destruction of any improvement on the Land and in case of loss covered by policies of insurance, Beneficiary is hereby authorized to make proof of loss if not made promptly by Grantors. The proceeds of any such insurance are hereby assigned to and shall be paid to Beneficiary. Any expenses incurred by Beneficiary in the collection of insurance proceeds, together with interest thereon from date of any such expense at the Default Rate, shall be so much additional Indebtedness Hereby Secured and shall be reimbursed to Beneficiary immediately upon demand. The proceeds of any such insurance may

be applied by Beneficiary, in its sole discretion, upon or in reduction of the Indebtedness Hereby Secured, without prepayment premium, or to the cost of rebuilding or restoration of the buildings and other improvements; provided however, that if Beneficiary shall require the improvements to be restored or rebuilt, the proceeds of such insurance will be made available therefor under the conditions and in the manner specified in the next following paragraph.

Insurance proceeds made available for restoration, repair, replacement or rebuilding of the improvements shall be disbursed from time to time (provided no default exists and is continuing in the Note, this Deed of Trust, the Assignment of Leases, or any other document securing the Note at the time of each such disbursement), after first deducting the expense of such disbursement including, without limitation, reasonable attorneys' fees, costs of title insurance, escrows and closings by the title company or otherwise and fees and expenses of the disbursing party, upon the disbursing party being furnished with satisfactory evidence of the cost of completion of such work and of the diligent and timely prosecution thereof and with architect's certificates, waivers of lien, contractors' and subcontractors' sworn statements and other evidence of cost and payments so that the disbursing party can verify that the amounts disbursed from time to time are represented by completed and in place work and that said work is free and clear of mechanic's lien claims. No payment made prior to the final completion of any such restoration, repair, replacement or rebuilding shall exceed ninety percent (90%) of the value of the work performed from time to time and at all times the undisbursed balance of such proceeds remaining in the hands of the disbursing party together with funds deposited for the purpose or irrevocably committed for such purpose, shall be sufficient, in the reasonable judgment of Beneficiary, to pay for the cost of completion of all such restoration, repair, replacement or rebuilding. Upon written request of Grantors, Beneficiary may require that plans and specifications for such restoration, repair, replacement or rebuilding be submitted to and approved by Beneficiary prior to the commencement of the work. Any surplus which may remain out of said insurance proceeds after payment of costs of building and restoration may, at the option of Beneficiary, be applied either on account of the Indebtedness Hereby Secured, without prepayment premium, or be paid to any person or persons entitled thereto. Application or release of proceeds under the provisions hereof shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. No interest shall be allowed on account of any such proceeds or other funds held in the hands of Beneficiary or the disbursing party hereunder.

Unless otherwise waived by Beneficiary as provided herein, Grantors shall make monthly deposits with Beneficiary, in a non-interest-bearing account, together with and in addition to interest and principal, in amounts determined by Beneficiary to be sufficient to accumulate in such account, at least sixty (60) days prior to their due date, adequate funds to pay annual insurance premiums necessary to keep the insurance required herein in force. The amount of such premiums, when unknown, shall be estimated by Beneficiary. Such deposits shall be used by Beneficiary to pay such premiums when due. Any insufficiency of such account to pay such charges when due shall be paid by Grantors to Beneficiary on demand. If, by reason of any default by Grantors under any provision of this Deed of Trust, Beneficiary declares the Indebtedness Hereby Secured to be due and payable, Beneficiary may then apply any funds in said account against the Indebtedness Hereby Secured. The enforceability of the covenants relating to insurance premiums herein

otherwise provided shall not be affected except insofar as those obligations have been met by compliance with this paragraph. Beneficiary may from time to time, at its option, waive and after any such waiver reinstate, any or all provisions hereof requiring such deposits, by notice to Grantors in writing. While any such waiver is in effect, Grantors shall pay insurance premiums as herein elsewhere provided.

5. Beneficiary's Performance of Defaulted Acts. In case of the occurrence of a default after the giving of notice and the expiration of any cure period as set forth herein or an Event of Default herein, upon written notice to Grantors, Beneficiary may, but need not, make any payment or perform any act herein required of Grantors in any form and manner deemed expedient, including, but not limited to, payment of installments of taxes, assessments and other governmental charges and impositions, payment of costs of repair and maintenance and payment of insurance premiums, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax or assessment or cure any default of lessor in any lease of the Premises. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Beneficiary in regard to any stamp tax or to protect the Premises and the lien hereof, together with interest thereon from date of any such payment at the Default Rate, shall be immediately due and payable on demand and shall be so much additional Indebtedness Hereby Secured. Inaction of Beneficiary shall never be considered as a waiver of any right accruing to it on account of the occurrence of any default on the part of Grantors. Performance by Beneficiary of the obligations of Grantors hereunder shall not be deemed to relieve Grantors from any default hereunder. Beneficiary in making any payment hereby authorized (a) relating to taxes and assessments, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; or (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted.

6. Condemnation. Grantors shall promptly give Beneficiary written notice of the actual or threatened commencement of any condemnation or eminent domain proceeding affecting the Premises and shall deliver to Beneficiary copies of any and all papers served in connection therewith. Any award of damages in connection with any condemnation (or sale in lieu thereof) for public use of or injury to the Premises or any part thereof, or any compensation, awards, other payments or relief due to damage to the Premises in any manner, is hereby assigned and shall be paid to Beneficiary, Beneficiary being hereby authorized to collect and receive such payments from the seller or condemning authorities and give proper receipts and acquittances therefor. The proceeds of any such taking shall be applied, at the option of Beneficiary, to reduction, without prepayment premium, of the Indebtedness Hereby Secured, whether due or not, in such order as Beneficiary may determine, or paid over to Grantors or other person or persons entitled thereto. Application or release of the proceeds, or any part thereof, under this paragraph shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

7. Assignment of Rents and Leases. As additional security for payment of the Indebtedness Hereby Secured and for the faithful performance of the terms and conditions contained herein and in the Note and any other document securing the Note, Grantors do hereby absolutely and unconditionally assign and set over unto Beneficiary all rents, issues and profits and purchase proceeds from the Premises hereafter accruing. In furtherance hereof, Grantors have separately assigned to Beneficiary all right, title and interest of Grantors in all leases of the Premises by an assignment of even date herewith (in this Deed of Trust called the "Assignment of Leases") recorded in the Office of the Auditor of Skagit County, Washington to which reference is made for the terms thereof, all of which are incorporated herein. The Assignment of Leases includes, without limitation, the reversionary interest of Grantors and the benefit of all covenants in all leases of the Premises binding on each lessee and necessary or convenient for the enforcement of the interests of Beneficiary and Grantors give to and confer upon Beneficiary the right, power and authority during the continuance of this Deed of Trust to collect the rents, issues and profits of the Premises and all other sums due Grantors under all leases of the Premises, including any purchase proceeds payable thereunder. Without the written consent of Beneficiary, Grantors will not: (i) accept rent for more than thirty (30) days in advance of the due date under any lease of the Premises, or (ii) subordinate any lease of the Premises to this Deed of Trust. Grantors will observe and perform all promises, terms and conditions on the part of Grantors to be performed under all leases of the Premises. Grantors covenant, represent and warrant that there are no assignments of leases or assignments of rents involving the Premises other than that herein described; that rents under the leases of the Premises have not been paid more than thirty (30) days in advance of the date due thereunder; and that the leases of the Premises have not been subordinated to this Deed of Trust without the prior written consent of Beneficiary. Any sums advanced by Beneficiary for the purposes specified in the Assignment of Leases, together with interest thereon from the date of any such advancement at the Default Rate, shall be due and payable immediately on demand and shall be so much additional Indebtedness Hereby Secured.

During the term of the Deed of Trust, all leases of the Premises and any modifications, extensions, renewals, and terminations thereof, shall be subject to the prior written approval of Beneficiary, except that: (a) Grantors may enter into an extension of any existing lease without Beneficiary's prior written consent if the terms of the extension were contained in the lease when it was approved by Beneficiary; (b) Grantors may enter into minor modifications of any existing lease if such modifications are on terms comparable to existing local market terms as of the date of execution of the modifications and if such modifications do not materially reduce rent, shorten the lease term, grant extension options, reduce tenant's obligations under the lease, or increase Grantors' obligations under the lease; and (c) Grantors may enter into new leases of the Premises without the prior written consent of Beneficiary provided that each such lease: is on terms comparable to existing local market terms as of the date of execution thereof, is an arm's length transaction with a bona fide independent third party tenant, is subject and subordinate to the Deed of Trust and the lessee thereunder agrees to attorn to Beneficiary, contains provisions that require each tenant to contribute its pro-rata share of operating expenses and real estate taxes, and is to a tenant whose use of the Premises does not involve the distribution, growth, or sale of cannabis or derivatives of cannabis (whether medical or recreational).

All requests to Beneficiary for approval of modifications, extensions, renewals, or terminations of existing leases or approval of new leases will be sent via email to the Portfolio Management team member designated by Beneficiary, with copy to the Servicing Correspondent. The subject line of each request must state: "Urgent Lease Approval Request – Loan #2326701" and the body of each request must state that Beneficiary has ten (10) business days to respond to the request or the request will be deemed approved. Beneficiary's Portfolio Management team member will send an email response to Grantors that she/he has received Grantors' request and that consideration of the request is in process; the aforementioned ten (10) business days period will commence upon the sending of such email response to Grantors.

In the alternative, Grantors may elect to submit such requests in writing to Beneficiary by certified mail or overnight carrier. Each request will notify Beneficiary that, under the Loan Documents, Beneficiary has ten (10) business days from its receipt of the request to respond to the request or the request will be deemed approved. If Beneficiary does not respond to the request within ten (10) business days, the request will be deemed approved. Each such request sent by certified mail or overnight carrier must be addressed to: American United Life Insurance Company, One American Square, Indianapolis, IN, 46206 (46282 for overnight carrier) Attn: Vice President, Mortgage Loans, Reference Loan #2326701.

8. Miscellaneous Covenants of Grantors. Except as may be specifically provided in this Deed of Trust (i) Grantors (including any or all partners, members, stockholders and holders of beneficial interests) will not sell, cease to own, pledge, encumber, transfer or dispose of the Premises, or any interest therein or any part thereof, or in Grantors, without the prior written consent of Beneficiary; (ii) Grantors will not, without prior written consent of Beneficiary make the Premises, or allow the Premises to be made, subject to any lien or security interest, except the lien of this Deed of Trust, which is not removed or bonded-over to Beneficiary's satisfaction, within thirty (30) days after the date such lien or security interest comes into existence. (If bonded-over, any such lien or security interest must be removed within not more than one hundred eighty (180) days after the date it attaches.); (iii) Grantors will annually furnish to Beneficiary, within one hundred twenty (120) days after the end of each fiscal year of Grantors, copies of current and complete financial statements on Grantors, on the partners of Grantors, on any guarantors that executed any guaranties in connection with this Deed of Trust or the Note, and full financial statements (balance sheet and operating statement) on the operations of the Premises, all in reasonable detail and in form reasonably acceptable to Beneficiary, with statements on the Premises to be prepared and certified by an independent Certified Public Accountant or by Grantors; (iv) Grantors will annually furnish to Beneficiary, within one hundred twenty (120) days after the end of each fiscal year of Grantors, a current rent roll of the Premises, certified by Grantors to the extent required under a lease of the Premises, which rent roll shall include each tenant's name, lease execution and commencement date, lease termination date, square footage leased, effective annual rent (fixed, percentage and reimbursements), rent per square foot, unit number, date rent paid through, name of any lease guarantor, all special rent items, options to purchase, extend, renew or terminate, any unextinguished free rentals or concessions to tenant, and any obligations of tenants assumed by Grantors; and (v) Grantors shall not change its principal place of business, the location of its chief executive office, its name, its identity or its structure without

notifying Beneficiary of such change in writing at least thirty (30) days prior to the effective date of such change, and, in the case of a change in Grantors' structure, without first obtaining the prior written consent of Beneficiary.

Notwithstanding the foregoing, the Grantors named herein (but not a subsequent owner of the Premises) shall have a one-time right, during the term of the this Deed of Trust, to sell or transfer Grantors entire collective 100% ownership interest in the Premises, in one transaction, without any changes to the terms and conditions of the loan, provided that (i) the transferee ("Transferee") is a special purpose, single asset entity and Transferee's principals are acceptable to Beneficiary in Beneficiary's sole discretion in terms of financial strength and creditworthiness; (ii) at the time of transfer of the Premises the key owners of the Transferee has a collective net worth exceeding \$16,800,000, exclusive of the Premises, as evidenced by financial statements acceptable to Beneficiary; (iii) the Transferee (or its principals) has had at least five years of experience owning and/or managing properties similar to the Premises in the metropolitan area where the Premises is located; (iv) the Transferee agrees to assume all of the duties and obligations of the Grantors under the Loan Documents pursuant to documentation satisfactory to Beneficiary; (v) the Transferee and Grantors agree to execute and deliver to Beneficiary such documents regarding the transfer and assumption as Beneficiary may require, including, but not limited to, a recordable assumption agreement, acceptable endorsements to Beneficiary's title insurance policy and an opinion of Transferee's counsel in form acceptable to Beneficiary; (vi) an assumption fee equal to 1% of the outstanding principal balance is paid to Beneficiary prior to such transfer; (vii) the Grantors are not then in default under the terms or conditions of the loan; (viii) all costs relating to the transfer are paid by Grantors or Transferee; (ix) Beneficiary is provided with all documents necessary to consider the transfer, and prior written notice of the transfer, at least 60 days before such transfer; (x) Beneficiary receives written confirmation from any guarantors that any guaranties executed in connection with the loan remain unmodified and in full force and effect after such transfer; (xi) if any lease of the Premises requires the tenant thereunder to consent to such transfer, written evidence of such tenant's consent, in form acceptable to Beneficiary, shall be provided to Beneficiary prior to such transfer; and (xii) if Beneficiary chooses to close the transfer and assumption through outside counsel, Grantors shall be responsible for all outside counsel fees and costs incurred by Beneficiary.

Notwithstanding the foregoing, the following listed transfers of ownership interests in any of the Grantors (but not transfers of the Premises) shall be permitted during the term of the loan provided that (i) Beneficiary is given at least 30 days prior written notice of any such transfer; (ii) the Grantors and the transferee agree to execute and deliver to Beneficiary such documents regarding the transfer as required by Beneficiary; (iii) the Grantors are not then in default under the terms and conditions of the Loan Documents; (iv) Grantors and/or the transferee pay all costs and expenses related to such transfer; (v) Beneficiary receives written confirmation from any guarantors that any guaranty(s) executed in connection with the loan remain(s) unmodified and in full force and effect after such transfer; (vi) Beneficiary is paid a processing fee of not less than \$2,000 for each such transfer; and (vii) after such transfer (except in the case of their death), Benjamin J. Cheng retains a direct or indirect ownership interest in all Grantors:

- a. Transfers of ownership interests in a Grantor from any existing partner, shareholder or member of that Grantor to another existing partner, shareholder or member of that Grantor.
- b. Transfers of ownership interests in a Grantor from an existing partner, shareholder or member of that Grantor to the children, grandchildren, spouse, brothers or sisters of such transferring partner, shareholder or member (or to trusts for the benefit of such persons.)
- c. Transfers of ownership interests in a Grantor, which occur as the result of the death of a partner, shareholder or member of that Grantor.

Notwithstanding the foregoing, the following listed transfers of the ownership interests in the Premises that are held by an individual tenant in common Grantor (but not transfers of the entire Premises) shall be permitted during the term of the loan provided that (i) Beneficiary is given at least 30 days prior written notice of any such transfer; (ii) all Grantors, including the transferring tenant in common, and the transferee agree to execute and deliver to Beneficiary such documents regarding the transfer as required by Beneficiary; (iii) the Grantors are not then in default under the terms and conditions of this Deed of Trust or the Note; (iv) Grantors pay all costs and expenses related to such transfer; (v) Beneficiary receives written confirmation from any guarantors that any guaranty(s) executed in connection with the loan remain(s) unmodified and in full force and effect after such transfer; (vi) Beneficiary is paid a processing fee of not less than \$2,000 for each such transfer; and (vii) after such transfer, Benjamin J. Cheng retains a direct or indirect ownership interest in the Premises:

- a. Transfers of tenant in common ownership interests in the Premises from any existing tenant in common Grantor to another existing tenant in common Grantor.
- b. Transfers of tenant in common ownership interests in the Premises from an existing tenant in common Grantor to a single asset bankruptcy remote entity wholly owned by children, grandchildren, spouse, brothers or sisters of the transferring tenant in common Grantor (or wholly owned by trusts for the benefit of such persons).

9. Compliance with Law and Agreements. Grantors will comply with all present and future statutes, laws, rules, orders, restrictions, regulations and ordinances affecting the Premises, any part thereof, or the use thereof and shall not knowingly permit any lessee to use or occupy the Premises in violation of any law, ordinance, or regulation. Specifically, but without limiting the foregoing requirement, Grantors shall not and shall not knowingly allow any tenant to distribute, grow, or sell cannabis or derivatives of cannabis (whether medical or recreational) in violation of the Controlled Substances Act (21 U.S.C. §§ 801 et. seq.), or use the Premises in any way in violation of the Controlled Substances Act (21 U.S.C. §§ 801 et. seq.). Grantors will comply with the provisions of all agreements affecting the Premises including, without limitation, easement agreements for use of common areas, if any. Grantors represent and warrant (i) to the best of Grantors' knowledge, that all improvements on the Land were constructed in compliance

with all existing statutes, laws, rules, orders, regulations and ordinances; (ii) that, to the knowledge of Grantors, there are no defects in materials or workmanship affecting the Premises; (iii) that the Premises is properly zoned for the uses specified in the leases of the Premises; (iv) except as otherwise disclosed to Beneficiary, that the Premises has not been designated as a flood hazard area by any agency of government; and (v) that the Premises is separately assessed for real estate tax purposes.

10. Effect of Changes in Laws Regarding Taxation. In the event of the enactment after this date of any law of the state in which the Premises is located deducting from the value of the Premises for the purpose of taxation any lien thereon, or imposing upon Beneficiary the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Grantors, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the interest of Beneficiary in the Premises, or the manner of collection of taxes, so as to adversely affect this Deed of Trust or the Indebtedness Hereby Secured or the holders thereof, then, and in any such event, Grantors, upon written demand by Beneficiary, shall pay such taxes or assessments, or reimburse Beneficiary therefor, provided, however, that if in the reasonable opinion of counsel for Beneficiary (i) it might be unlawful to require Grantors to make such payment or (ii) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then and in such event, Beneficiary may elect, by notice given to Grantors, to declare all of the Indebtedness Hereby Secured to be and become due and payable sixty (60) days from the giving of such notice.

11. Waiver; Releases; Resort to Other Security; etc. Without affecting the liability of Grantors or any other party liable for payment of any Indebtedness Hereby Secured or performance of any obligation contained herein, and without affecting the rights of Beneficiary with respect to any security not expressly released in writing, Beneficiary may, at any time, and without notice to or the consent of any party in interest with the Premises or the Note or the Indebtedness Hereby Secured (a) release any person liable for payment of all or any part of the Indebtedness Hereby Secured or for performance of any obligation herein, (b) make any agreement extending the time or otherwise altering the terms of payment of all or any part of the Indebtedness Hereby Secured or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof, (c) accept any additional security, (d) release or otherwise deal with any property, real or personal, including any or all of the Premises, including making partial releases of the Premises without notice to or approval of other parties in interest with the Premises, or (e) resort to any chattel mortgages, security agreements, pledges, contracts of guarantee, assignments of rents and leases or other securities, and exhaust any one or more of said securities and the security hereunder, either concurrently or independently and in such order as it may determine, or (f) accept payment of the Indebtedness Hereby Secured, or any part thereof, after its due date or after acceleration of such indebtedness for default of Beneficiary.

12. Beneficiary's Rights of Inspection. Upon at least twenty-four (24) hours written notice to Grantors', Beneficiary, or its agents, may at all reasonable times enter upon the Premises for the purposes of inspection. Beneficiary shall have no duty to make such inspection and shall not be liable to Grantors if it makes such inspection. Beneficiary, or its agents, may between the



hours of 8:00 a.m. and 5:00 p.m., Monday through Friday except for legal holidays, subject to twenty-four-hour prior notice, inspect the books and records of Grantors relating to the Premises or this Deed of Trust.

13. Additional Assurances. Grantors agree upon reasonable written request by Beneficiary that it will execute and deliver such further instruments and assurances and will do such further acts as may be necessary or proper to carry out more effectively the purposes of this Deed of Trust and without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the granting clause hereof, or intended so to be and to execute to Beneficiary assignments of leases on the Premises hereafter executed, if any (provided such requests, instruments, assurances or acts do not impose additional obligations upon any of the Grantors).

14. Protection of Security. Grantors agree to appear in and defend any suit, action or proceeding that affects the Premises or its value, this Deed of Trust, the Note, the Assignment of Leases, the Indebtedness Hereby Secured or the rights or powers of Trustee or Beneficiary and should Beneficiary or Trustee elect also to appear in or defend any such action or proceeding, or should Beneficiary or Trustee be made a party to such action by reason of this Deed of Trust, Grantors will at all times, indemnify and on demand reimburse Beneficiary or Trustee from any and all loss, damage, expense or cost arising out of or incurred in connection with any such suit action or proceeding, including, without restriction, costs of evidence of title and reasonable attorneys' fees, and the sum of all such expenditures, together with interest thereon from date of any such expenditure at the Default Rate, shall be due and payable immediately and shall be so much additional Indebtedness Hereby Secured; PROVIDED, HOWEVER, SUCH INDEMNIFICATION SHALL NOT COVER ANY LOSS, DAMAGE, EXPENSE OR COST ARISING OUT OF BENEFICIARY'S OR TRUSTEE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

15. No Claim Against Beneficiary or Trustee. Nothing contained in this Deed of Trust shall constitute any consent or request by Beneficiary or Trustee, express or implied, for the performance of any labor or services or for the furnishing of any materials or other property in respect of the Premises, or any part thereof, nor as giving Grantors or any lessee under any lease of the Premises any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would create any personal liability against Beneficiary or Trustee in respect thereof or would permit the making of any claim that any lien based on the performance of such labor or services or the furnishing of any such materials or other property is prior to the lien of this Deed of Trust.

16. Late Charge. Grantors agree to pay, in addition to all other sums provided for herein, a late charge of five (5) cents for each one dollar of each regular monthly payment not made within five (5) days of when due, to cover the extra expense of Beneficiary in handling delinquent payments; provided, however, such late charge shall not be charged against the amount of any balloon payment payable at maturity that is in excess of a regular monthly payment.

17. Filing and Other Fees. Grantors will pay all fees and expenses of Trustee and of this Deed of Trust and all filing, registration or recording fees, and all expenses incident to the execution and acknowledgment of this Deed of Trust and all federal, state, county, and municipal taxes, and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note, this Deed of Trust and any further assurances.

18. Hazardous Substance Compliance and Indemnification. Grantors hereby expressly represent, warrant and covenant to Beneficiary that: (i) neither Grantors nor, to the knowledge of Grantors, any other person, has used or permitted any Hazardous Substance (as hereinafter defined) to be placed, held, stored or disposed on the Premises or any portion thereof; (ii) the Premises does not now contain any Hazardous Substance in violation of any Environmental Laws (as hereinafter defined); and (iii) Grantors, so long as any of the Indebtedness Hereby Secured remains unpaid, shall not allow any Hazardous Substance to be placed, held, stored or disposed on the Premises or any portion thereof or incorporated into any improvements on the Premises in violation of any Environmental Laws.

The term "Hazardous Substance" shall mean any hazardous, toxic, or dangerous waste, substance or material defined as such in or for the purpose of the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Super-Lien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulations, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, now or at any time hereafter in effect (collectively the "Environmental Laws").

Grantors hereby agree to indemnify Beneficiary and hold it harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever, paid, incurred or suffered by, or asserted against, Beneficiary for, with respect to, or as a direct or indirect result of any of the following:

- (i) The presence on or under, the escape, seepage, leakage, spillage, discharge, emission or release from, the Premises or any portion thereof of any Hazardous Substance, toxic material, dangerous waste or hydrocarbon (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any of the Environmental Laws); or
- (ii) Any liens against the Premises or any portion thereof or any interest or estate in any portion thereof, created, permitted or imposed by the Environmental Laws, or any actual or asserted liability of or obligations of Grantors under the Environmental Laws. Grantors shall have no liability or indemnification obligations under this Section 18 for losses, liabilities, damages, injuries, costs, expenses or claims arising from the gross negligence or willful misconduct of Beneficiary or Trustee and in the event that (a) Beneficiary takes title to the Premises, through a Foreclosure Transfer (as defined below), or (b) Grantors transfer ownership of the Premises pursuant to a transfer approved by Beneficiary, then from and after the date title

vests in Beneficiary or such transferee (the "Transfer Date") with respect to the Premises, the indemnification provided under this Section 18 shall not apply to any losses incurred by Beneficiary as a result of actions after the Transfer Date, but only if, such actions result or arise from the introduction and release of Hazardous Materials at the Premises after the Transfer Date; provided, however, that, from and after the Transfer Date, the indemnification provided under this Section 18 shall otherwise remain in full force and effect with respect to any and all other losses, including, without limitation, with respect to (i) any conditions in existence on or prior to the Transfer Date, (ii) the continuing migration or release of any Hazardous Materials introduced at the Premises or surrounding property on or prior to the Transfer Date, and (iii) the existence of any conditions on or prior to the Transfer Date which become a violation of Environmental Laws after the Transfer Date as a result of a change in law that becomes effective after that date. "Foreclosure Transfer" means the transfer of title to the Premises at a foreclosure sale under this Deed of Trust, either pursuant to judicial decree or the power of sale contained in this Deed of Trust, or by deed in lieu of such foreclosure. The burden of proof with regard to establishing the date upon which such chemical, material or substance was placed or appeared in, on or under the Premises shall be upon Grantors.

Any expenses or payments made by Beneficiary to cure any violation of any Environmental Laws shall be additional Indebtedness Hereby Secured.

19. Default. It shall be a default (in this Deed of Trust called "default" or "Event of Default") under this Deed of Trust if (a) Grantors shall fail to punctually pay any Indebtedness Hereby Secured in accordance with the terms of the Note and this Deed of Trust and any other document securing the Note (whether at the stated maturity or at a date fixed for any installment payment or otherwise) and such default continues for a period of five (5) days after the date of mailing written notice thereof to Grantors; or (b) Grantors shall fail to maintain in force the insurance policies or pay the premiums thereon as required in Section 4 of this Deed of Trust; or (c) Grantors shall default in the due observance or performance of any covenant or agreement set out in clauses (i) or (ii) of Section 8 of this Deed of Trust; or (d) Grantors shall fail to comply with or perform any of the other terms, conditions or covenants of the Note or of this Deed of Trust and such default continues for a period of fifteen (15) days after the date of mailing written notice thereof to Grantors, except that if any such default cannot with due diligence be cured within a period of fifteen (15) days, such default shall not be deemed to continue if Grantors proceed promptly and with all due diligence to cure the default and diligently completes the curing thereof; or (e) Grantors shall abandon or surrender the Premises; or (f) Grantors shall default in the performance of any terms, conditions or covenants of the Assignment of Leases or any other document securing the Note (other than covenants or agreements of the type set out in clauses (i) or (ii) of Section 8 of this Deed of Trust) and such default continues for a period of fifteen (15) days after the date of mailing written notice thereof to Grantors, except that if any such default cannot with due diligence be cured within a period of fifteen (15) days, such default shall not be deemed to continue if Grantors proceed promptly and with all due diligence to cure the default and

diligently completes the curing thereof; or (g) any representation or warranty herein or in the Note or Assignment of Leases or any other document securing the Note or in the financial statements of Grantors furnished to Beneficiary, proves to be untrue in any material respect; or (h) Grantors shall default or suffer to exist a condition that will, with the passage of time, constitute a default under any lease of the Premises and such default shall entitle the lessee to terminate or cancel same; or (i) Grantors shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due, or shall file a petition in bankruptcy, or shall be adjudicated as bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future bankruptcy or insolvency statute, law or regulation or shall file an answer admitting to or not contesting the material allegations of a petition filed against it in such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Grantors or a material part of its properties, or shall not within ninety (90) days after the appointment, without the consent or acquiescence of Grantors, of a trustee, receiver or liquidator of Grantors or any material part of its properties have such appointment vacated; or (j) the Premises or any part thereof be leased for mining purposes; or (k) any proceeding is filed to foreclose, or any notice of trustee's sale is recorded, on any other lien on the Premises (whether junior or senior to this Deed of Trust).

20. Acceleration, Remedies of Beneficiary, Proceeds of Sale. If a default or an Event of Default shall occur, then the whole of the Indebtedness Hereby Secured, including any prepayment premium then payable under the Note, shall, at the option of Beneficiary, become at once due and payable, without notice to Grantors. Beneficiary may thereupon, at its option, and without prior notice and without affecting the lien of this Deed of Trust, employ counsel, accountants, contractors and other appropriate persons to enforce the payment of the Indebtedness Hereby Secured, and Beneficiary shall, in addition to all other rights and remedies contained herein, have the following rights and remedies:

- (i) To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this Deed of Trust as a mortgage or for specific enforcement of the covenants of Grantors hereunder and Grantors agree that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy; and in any action to foreclose this Deed of Trust as a mortgage, Beneficiary shall be entitled (without notice and without regard to the adequacy of any security for said debt) to the appointment of a receiver of the rents and profits of the Premises and such receiver shall have, in addition to all the rights and powers customarily given to and exercised by such receiver, all the rights and powers granted to Beneficiary by the covenants contained in the next following subparagraph;
- (ii) To enter upon and take possession of the Premises and let the same or any part thereof, making therefor such alterations as it finds necessary, and subject to the terms and provisions of the Leases, may terminate in any lawful manner any tenancy or occupancy of the Premises, exercising with respect thereto any right or

option available to Grantors. From and after the occurrence of any such default, if any owner of the Premises shall occupy the Premises or part thereof such owner shall pay to Beneficiary in advance on the first day of each month a reasonable rental for the space so occupied, and upon failure so to do Beneficiary shall be entitled to remove such owner from the Premises by any appropriate action or proceeding. The entering upon and taking possession of the Premises, the collection of such rents, issues, and profits, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice;

- (iii) To exercise the power of sale rights herein granted and to execute a written request to Trustee to sell the Premises and thereupon Trustee shall sell the trust Premises, in accordance with the applicable provisions of Chapter 61.24 of the Revised Code of Washington ("RCW"), as amended, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (a) to the expense of sale, including a reasonable trustee's fee and attorneys' fees; (b) to the obligation secured by this Deed of Trust; and (c) the surplus, if any, shall be distributed to the person or persons entitled thereto. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the Premises that Grantors have or had the power to convey at the time of execution of this Deed of Trust, and such as Grantors may have acquired thereafter. The deed of Trustee shall recite the fact showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchasers and encumbrancers for value. In accordance with the requirements of RCW 61.24.030, a statement is herein made that the Land is not used principally for agricultural purposes;
- (iv) To resort to and realize upon the security hereunder and any other security now or hereafter held by Beneficiary in such order and manner as Beneficiary may, in its sole discretion, determine; resort to any or all such security may be taken concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both; and
- (v) To resort to any other remedy permitted by law.

If an Event of Default shall occur while any insurance proceeds or condemnation awards are being held by Beneficiary to reimburse Grantors for the cost of rebuilding or restoration of the buildings or other improvements on the Land as set forth in this Deed of Trust, then and in such event, Beneficiary shall be entitled to apply all such insurance proceeds and condemnation awards then held by it in reduction of the Indebtedness Hereby Secured in such order as Beneficiary may determine and any excess held by it over the amount of such indebtedness shall be returned to Grantors or any person or persons entitled thereto, without interest.

21. No Obligation of Notice by Trustee. Trustee is not obligated to notify any party hereto of any pending sale under any other deed of trust or of any action or proceeding in which Grantors, Beneficiary or Trustee shall be a party unless brought by Trustee.

22. Payment of Attorneys' Fees and Costs of Collection. Grantors further agree that in case it shall be necessary to place the Indebtedness Hereby Secured, or any part thereof in the hands of an attorney for collection, by suit or otherwise, all of the expenses and disbursements paid or incurred in connection with such court proceedings, or otherwise, including reasonable attorneys' fees, appraiser's fees, costs of environmental assessments, publication costs, outlays for documentary evidence, stenographer charges, title insurance costs and the cost of procuring a complete abstract showing the whole title to the Premises and embracing the judgment ordering sale thereof, shall be paid by Grantors and such amounts expended by Beneficiary, together with interest thereon from the date of any such expenditure, at the Default Rate, shall be so much additional Indebtedness Hereby Secured and shall become due and payable immediately on demand.

23. Payment of Prepayment Premium. The Note is subject to voluntary prepayment with premium and under the conditions stated therein. If, following the occurrence of an Event of Default and an acceleration of the Indebtedness Hereby Secured but prior to public sale of the Premises, Grantors shall tender to Beneficiary payment of an amount sufficient to satisfy the entire Indebtedness Hereby Secured, such tender shall be deemed to be a voluntary prepayment under the Note secured hereby and, accordingly, Grantors shall also pay to Beneficiary the prepayment premium (if any) then required under the Note in order to exercise the prepayment privilege contained therein. If such tender is made during a period when prepayment is not permitted, the premium shall be the highest amount stated in the prepayment clause in the Note secured hereby.

24. Forbearance Not a Waiver; Rights and Remedies Cumulative. No delay by Beneficiary in exercising any right or remedy provided herein or otherwise afforded by law or equity shall be deemed a waiver of or preclude the exercise of such right or remedy, and no waiver by Beneficiary of any particular provision of this Deed of Trust shall be deemed effective unless in writing signed by Beneficiary. All such rights and remedies provided for herein or which Beneficiary or the holder of the Note may have otherwise, at law or in equity (including, without limitation, the right to sue on the Note, the right to foreclose this Deed of Trust through judicial proceedings or by power of sale herein granted and the right to appointment of a receiver of the Premises) shall be distinct, separate and cumulative and may be exercised singly or serially (in any order) or concurrently, and as often as the occasion therefor arises. No action by Beneficiary under the provisions of this Deed of Trust shall impair any acceleration or foreclosure right or remedy available to Beneficiary under this Deed of Trust. Acceleration of the Indebtedness Hereby Secured, once claimed hereunder by Beneficiary, may, at the option of Beneficiary, be rescinded, but the tender and acceptance of partial payments alone shall not in any way affect or rescind such acceleration of the Indebtedness Hereby Secured.

25. Subsequent Agreements. Any agreement hereafter made by Grantors and Beneficiary pursuant to this Deed of Trust shall be superior to the rights of the holder of any intervening lien or encumbrance.

26. Substitute Trustee. Irrevocable power to appoint a substitute trustee or trustees is hereby expressly granted to Beneficiary to be exercised at any time hereafter, without notice and without specifying any reason therefor, by the recording of such appointment in the official public records of the county where this instrument is recorded. Grantors and Trustee expressly waive notice of the exercise of this power and any necessity for making oath or giving bond by any trustee, as well as any requirement for application to any court for the removal, appointment, or substitution of any trustee hereunder; and Beneficiary may elect to appoint a substitute trustee in accordance with the laws of Washington. Upon appointment, the successor trustee shall be vested with all the powers of the original Trustee.

27. Security Agreement. The parties agree to the following additional defined terms:

"Account" shall have the definition assigned to it in the UCC.

"Bank" shall have the meaning assigned to that term in the UCC.

"Chattel Paper" shall have the definition assigned to it in the UCC.

"Commercial Tort Claim" shall have the definition assigned to it in the UCC.

"Deposit Account" shall have the definition assigned to it in the UCC.

"Document" shall have the definition assigned to it in the UCC.

"Financing Statements" shall have the definition assigned to it in the UCC.

"General Intangibles" shall have the definition assigned to it in the UCC.

"Goods" shall have the definition assigned to it in the UCC. "Goods" include all detached fixtures, items of Personal Property that may become fixtures, property management files, accounting books and records, reports of consultants relating to the Land, site plans, test borings, environmental or geotechnical surveys samples and test results, blueprints, construction and shop drawings, and plans and specifications.

"Investment Property" shall have the definition assigned to that term in the UCC.

"Letter of Credit Rights" shall have the definition assigned to it in the UCC.

"Money" shall have the definition assigned to it in the UCC.

"Personal Property" means Accounts, Chattel Paper, Commercial Tort Claims, Deposit Accounts, Documents, Goods, Instruments, General Intangibles, Investment Property, Letter-of-Credit Rights, Letters of Credit, Money and Proceeds.

"Proceeds" shall have the meaning assigned to that term in the UCC.

"UCC" means the Uniform Commercial Code as adopted in the states where Grantors and the Premises are located, as applicable.

This Deed of Trust shall also constitute and serve as a "Security Agreement" on Grantors' Personal Property located, arising from or related to the Premises. Grantors hereby grant Beneficiary a security interest in all such Personal Property. Grantors hereby authorize Beneficiary to execute any "Financing Statements" deemed necessary by Beneficiary and agrees with Beneficiary to execute and deliver to Beneficiary, in form and substance satisfactory to Beneficiary, such further assurances as Beneficiary may, from time to time, consider reasonably necessary to create, perfect, and preserve the security interest of Beneficiary herein granted, and Beneficiary may cause such statements and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest. Beneficiary shall have all the rights, remedies and recourse with respect to the personal property afforded a secured party by the aforesaid UCC in addition to, and not in limitation of, the other rights, remedies and recourse afforded Beneficiary by this Deed of Trust.

Grantors shall provide to Beneficiary upon written request, certified copies of any searches of UCC records deemed necessary or appropriate by Beneficiary to confirm the first priority status of its security interest in the Personal Property, together with copies of all documents or records evidencing security interests disclosed by such searches. Grantors shall pay all filing fees and costs and all reasonable costs and expenses of any record searches (or their continuations) as Beneficiary may require. All of the Personal Property is, and shall during the term hereof continue to be, owned by Grantors, and is not the subject matter of any lease, control agreement or other instrument, agreement or transaction whereby any ownership, security or beneficial interest in the Personal Property is held by any person or entity other than Grantors, subject only to (1) Beneficiary's security interest, (2) the rights of tenants occupying the Land pursuant to leases approved by Beneficiary, and (3) the exceptions on title as permitted hereunder. Grantors covenant and agree that Grantors will furnish Beneficiary with notice of any change in its name, form of organization, or state of organization within thirty (30) days prior to the effective date of any such change. Grantors will not remove or permit to be removed any item included in the Goods from the real property described herein, unless the same is replaced immediately with unencumbered Goods (1) of a quality and value equal or superior to that which it replaces and (2) which is located on the real property described herein. All such replacements, renewals, and additions shall become and be immediately subject to the security interest of this Deed of Trust.

This Deed of Trust constitutes a financing statement filed as a fixture filing in the records of the county where the Premises is located with respect to any and all fixtures comprising the Premises. The "debtor" is Grantors, the "secured party" is Beneficiary, and the collateral is as described



above and in the granting clause of this Deed of Trust. The owner of record of the Land is Grantors.

28. Reconveyance to Grantors. Upon written request of Beneficiary stating that all Indebtedness Hereby Secured has been paid, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment of its fees by Grantors, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in any reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

29. Giving of Notice. Any notice which any party hereto may desire or be required to give to any other party shall be in writing and the mailing thereof by United States Postal Service certified or registered mail, or by recognized national overnight courier service, postage prepaid, addressed to Grantors or Trustee or Beneficiary, as the case may be, at the respective address first above set out, or at such other place as any party hereto may by written notice in writing designate to the other parties as a place for service of notice, shall constitute service of notice hereunder.

30. Subrogation. Beneficiary is hereby subrogated for further security to the lien, although released of record, of any and all encumbrances paid with the proceeds of the Indebtedness Hereby Secured.

31. Governing Law; Severability. In the event one or more of the provisions contained in this Deed of Trust or the Note secured hereby or in any other document securing the Note shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of Beneficiary, not affect any other provision of this Deed of Trust, and this Deed of Trust shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein. This Deed of Trust and the Note it secures are to be construed and governed by the laws of the State of Washington.

32. No Usury. Notwithstanding any provision hereof, it is not intended by the Note, Assignment of Leases, this Deed of Trust, or any other document securing the Note to impose upon Grantors any obligation to pay interest in excess of the maximum rate of interest permitted by law, and any interest which exceeds such maximum rate of interest shall automatically abate to the extent of such excess.

33. No Merger. Unless Beneficiary shall expressly consent in writing, the fee title to the Premises and the leasehold estate of any lessee under any of the leases of the Premises shall not merge but shall always remain separate and distinct notwithstanding the union of such estates either in Grantors, lessee in any lease of the Premises or a third party.

34. Successors and Assigns. This Deed of Trust and each and every covenant, agreement and other provision hereof shall be binding upon Grantors and their successors and assigns including, without limitation, each and every record owner from time to time of the fee title to the Premises or any other person having an interest therein and shall inure to the benefit of

Beneficiary and its successors and assigns. Wherever herein Beneficiary is referred to, such reference shall be deemed to include the holder from time to time of the Note whether so expressed or not, and each such holder from time to time of the Note shall have and enjoy all of the rights, privileges, powers, options and benefits afforded hereby and hereafter and may enforce each and every of the terms and provisions hereof as fully and to the same extent and with the same effect as if each such holder from time to time is herein by name specifically granted such rights, privileges, powers, options, benefits and is herein by name designated as Beneficiary. As used herein the words "successors and assigns" shall also be deemed to include the heirs, representatives, administrators and executors of any natural person who is a party to this Deed of Trust. In this Deed of Trust, whenever the context so requires, the masculine, feminine or neuter genders shall include the other genders, the singular number includes the plural and the plural the singular, and the term "person" shall include any individual, partnership, corporation, trustee or unincorporated association. If more than one person has executed this Deed of Trust as Grantors, the term "Grantors" shall include all such persons and the obligations of all such persons shall be joint and several.

35. Additional Security. If Beneficiary holds any additional security for any obligation secured hereby, it may enforce the sale thereof at its option, either before, contemporaneously with, or after the sale is made hereunder, and on any default of Grantors, Beneficiary may, at its option, offset against any indebtedness owing by it to Grantors, the whole or any part of the Indebtedness Hereby Secured, and Beneficiary is hereby authorized and empowered at its option, without any obligation so to do, and without affecting the obligations hereof, to apply toward the payment of any Indebtedness Hereby Secured, any and all sums of money which Beneficiary may have in its possession or under its control.

36. Irrevocable Trust, No Obligation of Notice, etc. This Deed of Trust created hereby is irrevocable by Grantors. Trustee accepts this Deed of Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law but acceptance is not required as a condition to the validity hereof and this Deed of Trust is effective upon delivery. Trustee shall not be obligated to notify any party hereto of pending sale under any other deed of trust, or of any action or proceeding in which Grantors, Beneficiary or Trustee shall be a party, except as required by law.

37. Reconveyance, Easements, Plats, etc. At any time, or from time to time, and without liability therefor and upon written request of Beneficiary and presentation of this Deed of Trust and the Note for endorsement, and without affecting the personal liability, if any, of any person for payment of the Indebtedness Hereby Secured, or the lien upon the remainder of the Premises hereby conveyed for the full amount of the indebtedness then remaining unpaid, Trustee may reconvey any part of the Premises; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or other agreement subordinating the lien or charge hereof.

38. Captions and Headings. The captions and headings of the various sections of this Deed of Trust are for convenience only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof.

39. Counterparts. This Deed of Trust may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one instrument.

40. Non-Agricultural Use. The Premises which is subject to this Deed of Trust is not used principally or primarily for agricultural or farming purposes.

41. Limitation of Liability. Subject to the limitations and exceptions contained in this section, and further subject to the terms of any guaranty agreement(s) and environmental indemnity agreement(s) executed in connection herewith, the Loan Documents (as hereinafter defined) shall be non-recourse to Grantors except that Grantors shall be personally liable to Beneficiary, on a joint and several basis: (i) for payment of the Indebtedness Hereby Secured and performance of Grantors' obligations under the Note, any guaranty of the Note, this Deed of Trust, the Assignment of Leases and any other document executed therewith (hereinafter the "Loan Documents") if any of the events described in the following items a. through g. occur; and (ii) to the extent of any loss suffered by Beneficiary as a result of the occurrence of any of the events described in the following items h. through s.:

a. fraud or material misrepresentation in connection with the Loan Documents or the loan evidenced thereby; b. the occurrence of any prohibited transfer without the prior written consent of Beneficiary; c. the voluntary encumbrance of the Premises or any part thereof or interest therein by a lien securing an obligation for which any of the Grantors or any of their members, shareholders, partners or beneficiaries is personally liable; d. any act, other than the assertion of valid legal defenses, by any of the Grantors or their members, shareholders, partners or beneficiaries to contest, delay or otherwise hinder Beneficiary's legal enforcement actions under the Loan Documents; e. any seizure or forfeiture of the Premises or other collateral or security provided under any of the Loan Documents, or any portion thereof or Beneficiary's interest therein, pursuant to federal, state or local laws, other than by condemnation; f. any breach of the obligations of any of the Grantors under the provisions of this Deed of Trust entitled "Hazardous Substance Compliance and Indemnification" including, without limitation, the indemnification obligations thereunder; g. if any action to seek partition of, or a forced sale of, the Premises is taken by any of the Grantors; h. waste or any act or omission by Grantors which materially reduces the value of the Premises; i. the failure following a default under any of the Loan Documents to apply all of the rents, profits or other income from the Premises or other collateral or security to the payment of the Indebtedness Hereby Secured, after paying all reasonable, ordinary and customary expenses directly incurred and currently due for the operation of the Premises; j. the collection of rents or other income from the Premises or other collateral or security more than thirty (30) days in advance or the failure to account for security deposits of tenants or other occupants at the Premises (and interest required by law or agreement to be paid thereon) which in either such case are not turned over to Beneficiary immediately after Beneficiary's demand following the occurrence of a default under any of the Loan Documents; k. the application of

insurance proceeds or condemnation awards relating to the Premises or other collateral or security provided under any of the Loan Documents in a manner contrary to the applicable provisions of the Loan Documents; l. the failure to maintain casualty, liability and other insurance as required under the Loan Documents prior to any transfer of possession of the Premises to Beneficiary or a receiver unless funds sufficient to pay all required premiums on such insurance were separately escrowed with Beneficiary in advance and coverage terminated because Beneficiary failed to pay the premiums for such coverage; m. the existence of any lien on the Premises (whether or not voluntary) other than those liens approved by Beneficiary; n. the removal, in violation of the Loan Documents, of any fixtures or personal property now or hereafter constituting collateral for the payment of Grantors' obligations under the Loan Documents, except to the extent replaced with fixtures or personal property of at least equal value and utility; o. the failure to pay real estate taxes, special assessments, personal property taxes and other levies or assessments constituting a lien against all or any part of the Premises or the collateral or other security provided under any of the Loan Documents prior to any transfer of possession of the Premises to Beneficiary or a receiver unless funds necessary to pay all such taxes, levies and assessments were separately escrowed with Beneficiary in advance and Beneficiary failed to pay such taxes, levies or assessments; p. the expenditure by Beneficiary of any sums required to perform landlord obligations under leases of the Premises or any part thereof required to have been performed prior to any transfer of possession of the Premises to Beneficiary or a receiver; q. the existence in any lease of the Premises of an option to purchase the Premises or any portion thereof; r. any modifications, terminations or cancellations of any lease of the Premises or any part thereof without Beneficiary's prior written consent, if and to the extent such consent is required under the Loan Documents; and s. if any Grantor files, or has filed against it, any proceeding in bankruptcy and Beneficiary incurs costs or losses as a result thereof.

The foregoing provisions of this section shall not (i) limit or impair in any way the validity or priority of the lien of this Deed of Trust or the liens created under any other Loan Documents, (ii) prevent the failure to pay when due of any amounts under the Loan Documents, or the failure to comply with any other covenants under the Loan Documents, from constituting a default under the Loan Documents, (iii) limit or impair in any way the rights of Beneficiary to accelerate maturity of the Indebtedness Hereby Secured or to cause a foreclosure sale or other enforcement of its remedies as to the Premises under the Loan Documents, (iv) limit or impair in any way Beneficiary's right to name Grantors or any guarantor a party defendant in any action for foreclosure under, or other enforcement of, the Loan Documents, if Grantors or any guarantor is a necessary party in connection therewith, or (v) limit or impair in any way Beneficiary's rights, or release any person's or entity's obligations, under any indemnity or guaranty given in connection with the Loan Documents.

**42. Waiver of Partition Rights.** Each Grantor: (a) waives any and all rights it may have, under applicable law, to require a partition of the Premises and/or to cause a forced sale of the Premises due to any inability to partition the Premises;

(b) agrees that the filing of any action for partition of the Premises, or for forced sale of the Premises due to inability to partition the Premises, shall constitute a default under the Loan Documents;

(c) agrees that, during the term of this Deed of Trust, the Premises and its operations shall be centrally managed by a manager acceptable to Beneficiary, under a management agreement acceptable to Beneficiary, which manager and management agreement shall not be changed without the prior written consent of Beneficiary; and

(d) waives all suretyship rights and defenses.

43. Oral Commitments Notice. ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

*[Remainder of page intentionally left blank; signature page(s) to follow.]*

IN WITNESS WHEREOF, Grantors have duly executed this Deed of Trust as of the day and year first above written.

CROSS COURT PLAZA – BWC LLC,  
a Texas limited liability company

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

Benjamin J. Cheng, Manager

STATE OF TEXAS )

) SS:

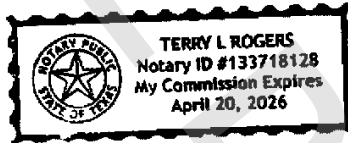
COUNTY OF Montgomery )

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this 20 day of April, 2023, personally appeared Benjamin J. Cheng, known to me to be the person(s) whose name is subscribed to the foregoing instrument, acknowledged that he is the Manager of Cross Court Plaza – BWC LLC, a Texas limited liability company, and executed said instrument by authority duly given and as the act of said limited liability company.

My Commission Expires: 4/20/2026

Terry L. Rogers  
NOTARY PUBLIC

[Notary Seal]



CROSS COURT PLAZA – CPL LLC,  
a Texas limited liability company

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

Benjamin J. Cheng, Manager

STATE OF TEXAS )

) SS:

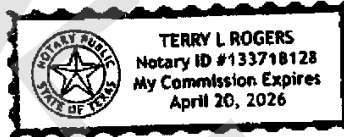
COUNTY OF Montgomery

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this 20 day of April, 2023, personally appeared Benjamin J. Cheng, known to me to be the person(s) whose name is subscribed to the foregoing instrument, acknowledged that he is the Manager of Cross Court Plaza – BWC LLC, a Texas limited liability company, and executed said instrument by authority duly given and as the act of said limited liability company.

My Commission Expires: 4 / 20 / 2026

Terry L. Rogers  
NOTARY PUBLIC

[Notary Seal]



CROSS COURT PLAZA – EC LLC,  
a Texas limited liability company

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

Benjamin J. Cheng, Manager

STATE OF TEXAS )  
 ) SS:  
COUNTY OF Montgomery )

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this 20 day of April, 2023, personally appeared Benjamin J. Cheng, known to me to be the person(s) whose name is subscribed to the foregoing instrument, acknowledged that he is the Manager of Cross Court Plaza – EC LLC, a Texas limited liability company, and executed said instrument by authority duly given and as the act of said limited liability company.

My Commission Expires: 4/20/2026

Terry L. Rogers  
NOTARY PUBLIC

[Notary Seal]

