

RECORDATION REQUESTED BY:

Whatcom Educational Credit Union
PO Box 9750
Bellingham, WA 98227-9750

WHEN RECORDED MAIL TO:

Whatcom Educational Credit Union
PO Box 9750
Bellingham, WA 98227-9750

209727-LT

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT**Unrecorded agreement**

Grantor(s): Culver Properties, LLC
Thrive Community Fitness Anacortes, LLC

Grantee(s): Whatcom Educational Credit Union

Abbreviated Legal Description: Lot 2B, BLA Sur 200306060196 (Seafarer's View) Being Ptn. Gov Lots 1 & 2, 19-35-2 EWM;

Assessor's Property Tax Parcel or Account Nos.: 350219-0-040-0100/P118625

THIS SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (this "Agreement") is dated as of August 9, 2023, among Culver Properties LLC ("Landlord") whose address is 1609 R Avenue, Anacortes, WA 98221, Thrive Community Fitness Anacortes, LLC ("Tenant") whose address is 1609 R Avenue, Anacortes, Washington 98221, and Whatcom Educational Credit Union ("Lender"), whose address is PO Box 9750, Bellingham, WA 98227-9750.

A. Tenant and Landlord have entered into an unrecorded Lease Agreement dated November 1, 2022 (together with any extensions, renewals, replacements and modifications thereof, the "Lease") covering premises on the Property (as defined below) located at 1609 R Avenue, Anacortes, Washington 98221, which is incorporated herein by reference ("Premises").

B. Lender has made or may make a loan of \$3,000,000.00 to Landlord (the "Loan") secured by a Deed of Trust dated August 10, 2023, recorded on August 11, 2023 under auditor file number 202308110050 (together with any amendments, extensions, renewals, supplements and

replacements thereof, the "Deed of Trust") and by other security documents covering the property described in Exhibit A (the "Property"), and has required that the Lease be subordinate to the lien of the Deed of Trust and to any other security documents executed by Landlord (the Deed of Trust and such security documents and any amendments, extensions, renewals, supplements and replacements thereof are collectively, the Security Documents").

C. Lender has been requested by Tenant, and Landlord to enter into a non-disturbance agreement with Tenant.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties hereto mutually covenant and agree as follows:

1. The Lease, and any extensions, renewals, replacements and modifications thereof, and all of the present and future right, title, and interest of Tenant in and to the Premises, including but not limited to any option, right of first refusal and/or right of first opportunity to purchase the Premises, or any acquisition of title to the Premises by Tenant during the term of the Loan, are and shall be subject and subordinate to the Security Documents and to all of the terms and conditions contained herein. Tenant will not cause the Lease to be subordinated to any interests other than those held by or made for the benefit of Lender, and its successors and assigns, without the prior written consent of Lender.

2. Lender consents to the Lease. In the event of foreclosure of the Deed of Trust, or in the event Lender comes into possession or acquires title to the Premises as a result of the enforcement or foreclosure of the Deed of Trust or Security Documents or the note secured thereby, or as a result of any other means, Lender agrees to recognize Tenant and further agrees that Tenant shall not be disturbed in its possession of the Premises for any reason other than one which would entitle Landlord to terminate the Lease under its terms or would cause, without further action by such Landlord, the termination of the Lease or would entitle such Landlord to dispossess the Tenant from the Premises.

3. Tenant agrees with Lender that if the interest of Landlord in the Premises shall be transferred to and owned by Lender by reason of foreclosure or other proceedings brought by it, or by any other manner, Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extensions or renewals thereof which may be effected in accordance with any option therefor in the Lease, with the same force and effect as if Lender were the Landlord under the Lease, and Tenant does hereby attorn to Lender as its landlord. This attornment to be effective and self-operative without the execution of any further instruments on the part of any of the parties hereto immediately upon Lender succeeding to the interest of Landlord in the Premises. Tenant agrees, however, upon the election of and written demand by Lender after Lender receives title to the Premises, to promptly execute an instrument in confirmation of the foregoing provisions, satisfactory to Lender, in which Tenant shall acknowledge such attornment and shall set forth the terms and conditions of its tenancy.

4. Notwithstanding any contrary provision of this Agreement, the parties agree that if Lender shall succeed to the interest of Landlord under the Lease, Lender shall not be (a) liable for any action or omission of Landlord or any other prior landlord (collectively, "Prior Landlord") under the Lease, (b) subject to any offsets or defenses which Tenant might have against any Prior Landlord, (c) bound by any rent or additional rent which Tenant might have paid for more than the current month to any Prior Landlord, (d) bound by any security deposit which Tenant may have paid to any Prior Landlord, unless such deposit is in an escrow fund available to Lender, (e) liable to any party under any indemnification provisions set forth in the Lease or for any damages that any party may suffer as a result of any false representation set forth in the Lease, the breach of any warranty set forth in the Lease, or any act of, or failure to act by any party other than Lender, (f) bound by any amendment, modification, termination, surrender, cancellation or waiver of any terms of the Lease made without Lender's consent, or (g) bound

by any provision in the Lease which obligates the Landlord to erect or complete any building or to perform any construction work or to make any improvements to the Premises.

5. If Lender acquires Landlord's interest in the Premises by foreclosure, deed in lieu of foreclosure or any other means, Tenant shall look solely to the interest of Lender in the Premises for the recovery of any judgment or the discharge of any other obligations of Lender and Lender shall not be personally liable for any such judgment or obligations.

6. Tenant shall provide Lender with a copy of any written notice that Tenant sends to or receives from Landlord no later than 10 days after transmission or receipt. In the event that Landlord shall default in the performance or observance of any of the terms, conditions or agreements in the Lease, Tenant shall give written notice thereof to Lender and Lender shall have the right (but not the obligation) to cure such default. Tenant shall not take any action with respect to such default under the Lease, including and without limitation, any action in order to terminate, rescind or void the Lease or to withhold any rental thereunder, for a period of 30 days after receipt of such written notice thereof by Lender with respect to any such default capable of being cured by the payment of money and for a period of 60 days after receipt of such written notice thereof by Lender with respect to any other such default (provided, that in the case of any default which cannot be cured by the payment of money and cannot with diligence be cured within such 60 day period because of the nature of such default or because Lender requires time to obtain possession of the Premises in order to cure the default, if Lender shall proceed promptly to attempt to obtain possession of the Premises, where possession is required, and to cure the same and thereafter shall prosecute the curing of such default with diligence and continuity, then the time within which such default may be cured shall be extended for such period as may be necessary to complete the curing of the same with diligence and continuity).

7. No person or entity who exercises a right, arising under the Deed of Trust or Security Documents, to receive the rents payable by Tenant under the Lease shall thereby become obligated to Tenant for the performance of any of the terms, covenants, conditions and agreements of Landlord under the Lease until and unless (and only to the extent of obligations relating to periods after) such person or entity obtains possession of the Premises. Tenant shall make the payments to be made by Tenant under the Lease to such person or entity upon receipt of written notice of the exercise of such rights. Such receipt of rent by any other party shall not relieve Landlord of its obligations under the Lease, and Tenant shall continue to look to Landlord only for performance thereof until and unless (and only to the extent of obligations relating to periods after) such other person or entity obtains possession of the Premises.

8. Tenant agrees with Lender that Tenant's estate in the Premises shall not be conveyed or encumbered without the written consent of Lender so long as the Security Documents are in effect. Tenant further agrees that Tenant will not voluntarily subordinate the Lease to any lien or encumbrance without Lender's consent.

9. Landlord and Tenant will not agree to amend, modify, terminate, surrender, cancel or waive any of the terms of the Lease without Lender's prior written consent.

10. Without any further consent of Tenant, Lender and Landlord may agree to any number of modifications (including increases in the amount of the Loan), extensions, renewals and replacements of the Security Documents, any promissory note evidencing the Loan and any other documents and instruments relating to the Loan and this Agreement shall remain in full force and effect following any such changes to the Loan.

11. This Agreement shall bind and inure to the benefit of all parties hereto, their successors and assigns. Without limiting the foregoing, as used herein, the term "Tenant" shall include Tenant, its

successors and assigns; the words "foreclosure" and "foreclosure sale" as used herein shall be deemed to include the acquisition of Landlord's estate in the Premises by voluntary deed (or assignment) in lieu of foreclosure, and the word "Lender" shall include the Lender herein specifically named and any of its successors and assigns, including anyone who shall succeed to Landlord's interest in the Premises by, through or under foreclosure of the Deed of Trust and other Security Documents.

12. This Agreement shall not be modified or amended, except in writing signed by the parties hereto.

13. If any provision of this Agreement or the Deed of Trust conflicts with any term of the Lease, the provisions of this Agreement and the Deed of Trust shall control.

14. The use of the neuter gender in this Agreement shall be deemed to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.

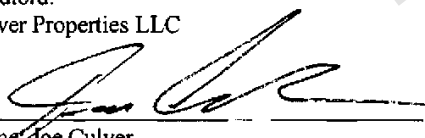
15. Notwithstanding any of the other provisions hereof, this Agreement is not intended to create and shall not be deemed to create any personal liability on the part of Tenant for repayment of the Loan.

16. If any suit or action is commenced to enforce or interpret this Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees at trial, in any appellate proceeding, receivership or proceeding under the bankruptcy code and post-judgment attorney fees incurred in enforcing any judgment.

17. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which, taken together, shall constitute one document.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

Landlord:
Culver Properties LLC

By: 
Name: Joe Culver
Title: Manager

By: Pacific Northwest Fitness, Inc., Member

Name: Aaron Culver
Title: President/Treasurer

Name: Joe Culver
Title: Secretary

Tenant:
Thrive Community Fitness Anacortes, LLC

By: 
Name: Joe Culver
Title: Manager

By: Pacific Northwest Fitness, Inc., Member

Name: Aaron Culver
Title: President/Treasurer

Name: Joe Culver
Title: Secretary

WHATCOM EDUCATIONAL CREDIT UNION

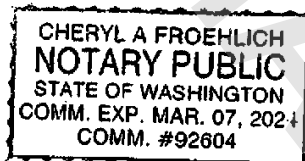
By: Mike Yeend

Name: Mike Yeend

Title: Credit Analysis & Loan Operations Manager

STATE OF WASHINGTON)
) ss.
 COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that Joe Culver is the person(s) who appeared before me, and said person(s) acknowledged that ~~(he/she/they)~~ signed this instrument, on oath state that ~~(he/she/they)~~ was (were) authorized to execute the instrument and acknowledged it as the manager of Culver Properties LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument & Thrive Community Fitness Association LLC

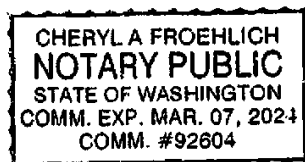
DATED this 10 day of Aug, 2023

Notary Public for Washington

My Commission Expires: 3-7-24

STATE OF WASHINGTON)
) ss.
 COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that Aaron Culver is the person(s) who appeared before me, and said person(s) acknowledged that ~~(he/she/they)~~ signed this instrument, on oath state that ~~(he/she/they)~~ was (were) authorized to execute the instrument and acknowledged it as the President/Treasurer of Pacific Northwest Fitness Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 10 day of Aug, 2023

Notary Public for Washington

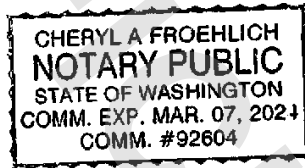
My Commission Expires: 3-7-24

STATE OF WASHINGTON)

) ss.

COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that Joe Cuyler is the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath state that (he/she/they) was (were) authorized to execute the instrument and acknowledged it as the Secretary of Pacific Northwest Editors to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument. Inc

DATED this 10 day of August, 2023

Notary Public for Washington

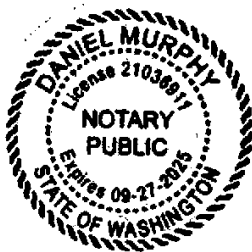
My Commission Expires: 3-7-24

STATE OF WASHINGTON)

) ss.

COUNTY OF Whatcom)

I certify that I know or have satisfactory evidence that Mike Yeend is the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath state that (he/she/they) was (were) authorized to execute the instrument and acknowledged it as the Credit Analyst Manager of WECH to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 9th day of August, 2023

Notary Public for Washington

My Commission Expires: 09/27/2025

EXHIBIT A

LEGAL DESCRIPTION

Lot 2B of that certain Boundary Line Adjustment Survey recorded June 6, 2003, under Auditor's File No. 200306060196, being a revision of Lots 2A, 2B, 2C and 2D, "Seafarer's View", as recorded under Auditor's File No. 200112030101, and that certain Boundary Line Adjustment Survey recorded April 29, 2003, under Auditor's File No. 200304290104, records of Skagit County, Washington; being in portions of Government Lots 1 and 2, Section 19, Township 35 North, Range 2 East, W.M., and of "Plate No. 10 Tide and Shore Lands of Section 19, Township 35 North, Range 2 East, W.M., Anacortes Harbor," according to the official map thereof on file with the State Land Commissioner at Olympia, Washington,

Situate in the City of Anacortes, County of Skagit, State of Washington.