

RESOLUTION NO. 2061

A RESOLUTION OF THE CITY COUNCIL OF ST. HELENS, OREGON, AUTHORIZING AMENDMENT NO. 2 TO THE PURCHASE AND SALE AGREEMENT OF PROPERTY AT 1300 KASTER ROAD, ACCOUNT NOS. 13249 AND 13215, AND AUTHORIZING AND DIRECTING THE CITY ADMINISTRATOR TO TAKE APPROPRIATE STEPS TO COMPLETE THE SALE OF PROPERTY, AND REPEALING RESOLUTION NO. 2053

WHEREAS, pursuant to Resolution No. 2020, the City of St. Helens declared the property located at 1300 Kaster Road, Account Nos. 13249 and 13215 (the "Property") surplus and satisfied the required process set forth in ORS 221.725, by publishing a notice of the proposed sale in a newspaper of general circulation in the City, holding a public hearing to receive comments from any resident regarding the sale of the Property, and disclosing at the public hearing the nature of the proposed sale and the general terms thereof, including an appraisal or other evidence of the market value of the Property; and

WHEREAS, pursuant to Resolution No. 2020, the City of St. Helens authorized the sale of the Property to Arcadia Paper Mills, LLC, and authorized the City Administrator to take appropriate steps to complete the sale according to the terms negotiated; and

WHEREAS, the City (the "Seller") and Arcadia Paper Mills, LLC, (the "Buyer") (together referred to as the "Parties") entered into a Purchase and Sale Agreement, dated August 30, 2024, for the Property, which authorized the Buyer a period of time to conduct a due diligence assessment of the Property; and

WHEREAS, on February 19, 2025, the Parties entered into a First Amendment to the Purchase and Sale Agreement for the Property; and

WHEREAS, the Parties negotiated a Second Amendment to the Purchase and Sale Agreement for the sale of Property, which Council provided conditional approval of in Resolution No. 2053; and

WHEREAS, the Parties have renegotiated a Second Amendment to the Purchase and Sale Agreement for the Property, which includes an extension of closing until December 30, 2025, which the Parties now seek to execute; and

WHEREAS, the Parties desire to proceed with the Purchase and Sale of the Property and complete closing under the terms and conditions as negotiated.

NOW THEREFORE, THE CITY OF ST. HELENS RESOLVES AS FOLLOWS:

1. Resolution No. 2053 is repealed.
2. The City Administrator is authorized and directed to execute Amendment No. 2 to the Purchase and Sale Agreement, which is attached hereto.
3. The City Administrator is authorized and directed to take appropriate steps to complete the closing of the Purchase and Sale of the Property to Arcadia Paper Mills, LLC, including finalizing all related documents, in accordance with the Purchase and Sale Agreement and Amendments No. 1 and No. 2.
4. This Resolution shall become effective immediately upon passage.

PASSED AND ADOPTED by the City Council on this 22nd day of September 2025 by the following vote:

Ayes:

Nays:

Abstains:

Jennifer Massey, Mayor

ATTEST:

Kathy Payne, City Recorder

SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT

This SECOND AMENDMENT TO REAL ESTATE PURCHASE AND SALE AGREEMENT (this “**Amendment**”), dated August __, 2025 (the “**Amendment Effective Date**”), is entered into by and between:

1. **ARCADIA HOLDINGS, LLC**, an Oregon limited liability company (“**Purchaser**”);
and
2. **THE CITY OF ST. HELENS, OREGON**, an Oregon municipal corporation (“**Seller**”).

The Purchaser and Seller are referred to herein as, the “**Parties**” and each, individually as, a “**Party**.”

WHEREAS, Purchaser’s predecessor-in-interest, Arcadia Paper Mills, LLC (“**Original Purchaser**”) and Seller entered into that certain Real Estate Purchase and Sale Agreement dated August 30, 2024 (as amended, the “**Agreement**”), as amended by that certain First Amendment thereto dated February 19, 2025 (“**First Amendment**”), with respect to certain real property described therein, located in St. Helens, Columbia County, Oregon;

WHEREAS, Original Purchaser assigned its right, title and interest into the Agreement to Purchaser pursuant to the Assignment and Assumption Agreement attached to this Amendment as **Exhibit A-1**, notice of such assignment was delivered to Seller pursuant to the notice attached hereto as **Exhibit A-2**, and Seller has consented to such assignment in reliance of the assignment materials provided by Purchaser and Original Purchaser; and

WHEREAS, Seller and Purchaser desire to amend the Agreement to as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises of the parties as set forth herein, Seller and Purchaser hereby agree as follows:

1. **Recitals; Definitions.** The foregoing Recitals are incorporated into and made a part of this Amendment. All capitalized terms not defined in this Amendment have the meanings ascribed to them in the Agreement. All references to the “**Agreement**” contained in this Amendment and in the Agreement shall refer to the Agreement as amended by this Amendment.

2. **Legal Description of the Land.** The PSA is hereby amended to reflect that all approval processes for the final configuration of the Land have been completed, and the legal description attached hereto as **Exhibit B** describes the boundaries of the Land that is to be conveyed pursuant to the PSA. **Exhibit B** supersedes all other, prior descriptions of the boundaries of the Land (whether via the Approved Survey or otherwise) among the parties. Seller has provided Purchaser with a copy of the Approvals related to the final configuration of the Land (as approved in this Section 2), and Purchaser has approved of all applicable conditions to such Approvals.

Purchaser and Seller further agree that, to the extent it is necessary or becomes necessary post-Closing to engage in any further property line adjustments or to record any partitions in order to ensure the legality of the lots created by the property line adjustment process used to configure

the Land pursuant to the Agreement, Seller shall pursue such adjustments or partitions and Purchaser shall reasonably cooperate with Seller's efforts, including signing such applications, owner approvals, and other filings and materials necessary to carry out activities. The terms of this subsection shall survive the Closing.

3. **Seller Financing; Additional Transaction Terms.** The Parties agree to substitute the entirety of the existing text of Section 8(b) with the replacement Section 8(b) attached to this Amendment as **Exhibit C-1**. Attached hereto as **Exhibit C-2** is a redline reflecting the revisions to the original Section 8(b) made pursuant to this Amendment.

4. **No Third-Party Beneficiaries.** Section 34 ([Intentionally Omitted]) is hereby deleted and replaced with the following:

"34. **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns. Nothing herein, express, or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement."

5. **Allocation of Purchase Price.** The Parties agree that the Purchase Price has been allocated as follows: \$5,000,000 of the Purchase Price is allocated to the Real Property, and (ii) \$2,500,000 of the Purchase Price is allocated to the Personal Property, Intangible Personal Property, and Plans and Specifications.,

6. **Modification of Payment and Seller Financing Terms.**

(a) **Payment at Closing.** Section 3(a) of the PSA is hereby amended to delete the reference to a \$3,500,000 payment at Closing by Purchaser and instead provide that Purchaser shall make a part payment of the Purchase Price in the amount of Four Million Five Hundred Sixty Seven Four Hundred Thirty Six and 72/100 Dollars (\$4,567,436.72), such amount being payable by wire transfer in immediately available federal funds at Closing.

(b) **Return of Deposit.** Section 3(b) of the PSA is hereby amended to provide that, if the transaction Closes, the Deposit shall be returned to Purchaser at Closing (to the extent not applied against Purchaser's closing costs at Closing), rather than being applied as a credit against the PSA. The remaining provisions of Section 3(b) of the PSA remain unaffected by the foregoing.

(c) **Seller Loan.** Section 3(c) of the PSA is hereby amended to provide that the Promissory Note deliverable to Seller at Closing (as part of the partial seller financing contemplated by the PSA) shall be in an amount equal to the balance of the Purchase Price remaining due and owing after giving effect to (i) application of Purchaser's \$4,567,436.72 payment at Closing contemplated by Section 3(a); and (ii) any adjustments to the Purchase Price that are made on account of Closing prorations contemplated by the PSA.

(c) **Amendment to Seller Financing Documentation.** "Exhibit 8(a)-1" to the PSA is replaced with the version of such exhibit attached to this Amendment as **Exhibit D-1**.

“Exhibit 8(a)-2” to the PSA is replaced with the version of such exhibit attached to this Amendment as **Exhibit D-2**.

7. **Bill of Sale**. Seller agrees that Purchaser shall be permitted to identify a different entity (from itself) to receive conveyance of the Personal Property pursuant to the Bill of Sale to be delivered at Closing pursuant to the PSA.

8. **Closing**. Section 9(a) of the PSA (as amended by the First Amendment to the PSA) is hereby amended to provide that the Closing shall take place through Escrow on or before December 30, 2025 (the “**Closing Date**”), notwithstanding any provisions in the PSA to the contrary. All references in the PSA to the “Closing Date” shall refer to December 30, 2025.

9. **Reaffirmation of Agreement**. All other terms and conditions of the Purchase and Sale Agreement remain as agreed upon and are hereby reaffirmed. This Second Amendment shall be deemed to be incorporated into the PSA and subject to all other terms and conditions therein.:

IN WITNESS WHEREOF, the parties hereto have executed this Amendment to the Purchase and Sale Agreement, effective as of the Effective Date defined above.

SELLER:

PURCHASER

CITY OF ST. HELENS, OREGON
An Oregon municipal corporation

ARCADIA HOLDINGS, LLC
An Oregon limited liability company

By: _____
Name: _____
Title: _____
Date Executed: _____

By: _____
Name: _____
Title: _____
Date Executed: _____

Exhibit A-1

ASSIGNMENT AGREEMENT

[See Attachment]

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT ("Agreement") is made and entered into as of August 27, 2025, by and between ("Effective Date"):

1. ARCADIA PAPER MILLS, LLC, a State of Oregon limited liability company, having its principal place of business within the St Helens Industrial Business Park, Saint Helens, Oregon 97051 ("Assignor"); and

2. ARCADIA HOLDINGS, LLC, a State of Oregon limited liability company, having its registered address at 1420 Fifth Avenue, Suite 3700, Seattle, Washington 98101 ("Assignee").

Each of the Assignor and the Assignee are together, the "Parties" and each individually, a "Party."

Recitals

WHEREAS, Assignor desires to assign to Assignee all of its rights, title, and interest in and to the Purchase and Sale Agreement entered into by the Assignor and the City of St. Helens, dated February 19, 2025 ("PSA"); and

WHEREAS, Assignee desires to accept such an assignment from Assignor, and to assume Assignor's obligations under the PSA.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the Parties agree as follows:

1. Assignment

Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's rights, title, and interest in, to, and under the PSA.

2. Assumption

Assignee hereby accepts the assignment of the PSA and agrees to perform all obligations of Assignor (as the "Purchaser") under the PSA. As between Assignor and Assignee only, the Assignor shall remain legally responsible for any obligations or liabilities that accrued prior to the Effective Date.

3. Representations and Warranties

(a) Assignor represents and warrants that: (i) it has full right and authority to assign the PSA; (ii) the PSA are free from all liens, encumbrances, and claims; (iii) the assignment does not violate any agreement or law.

(b) Assignee represents and warrants that: (i) it has the capacity to assume the PSA; and (ii) it has conducted its own due diligence.

(c) Assignor and Assignee both represent and warrant in favor of the Seller under the PSA (who shall be the beneficiary of this representation and warranty, despite not being a signatory and party hereto), in order to induce the Seller under the PSA to accept this Assignment as valid under the PSA, that Assignor and Assignee comply with the related party transfer and assignment provisions contained in Section 24 of the PSA.

4. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to its conflict of law provisions.

5. Miscellaneous

This Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns. This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement as of the Effective Date.

Assignor

ARCADIA PAPER MILLS, LLC

By: 

Name: Ray Ovanessian

Title: Manager

Assignee

ARCADIA HOLDINGS, LLC

By: 

Name: Ray Ovanessian

Title: Manager

Exhibit A-2

Notice to Seller of Assignment

[See Attachment]

NOTICE OF ASSIGNMENT

Date: August 27, 2025

To: City of St. Helens
265 Strand Street
St. Helens, OR 97051
Attn.: John Walsh

Copy to: City's Counsel

Re: Notice of Assignment ("Notice")

Dear Mr. Walsh:

Please be advised that, effective as of the Effective Date, Arcadia Paper Mills, LLC, as assignor, has assigned and transferred all of its rights, title, and interests in and to the Purchase and Sale Agreement, dated August 28, 2024 (as amended, the "PSA") to Arcadia Holdings, LLC (the "Assignee").

Assignee Contact Info:

ARCADIA HOLDINGS, LLC
1420 Fifth Avenue
Suite 3700
Seattle, WA 98101
Email: rayov@alliedwestpaper.com
Attn.: Ray Ovanessian

If you have any questions, please contact the undersigned.

Sincerely,

ARCADIA PAPER MILLS, LLC

By: 

Name: Ray Ovanessian

Title: Manager

cc: John F. Pierce
Kilpatrick Townsend & Stockton
Email: jfpierce@ktslaw.com

Exhibit B

Final Legal Description of the Land

[See Attachment]

**AKS ENGINEERING & FORESTRY**

12965 SW Herman Road, Suite 100, Tualatin, OR 97062

P: (503) 563-6151

F: (503) 563-6152

AKS Job #11559-01

EXHIBIT B**Adjusted Parcel 1 of Partition Plat No. 2020-03**

A portion of Parcel 1 of Partition Plat No. 2020-03, recorded as Instrument Number 2020-5170, Columbia County Records, located in the East One-Half of Section 9, and the West One-Half of Section 10, Township 4 North, Range 1 West, Willamette Meridian, City of St. Helens, Columbia County, Oregon, and being more particularly described as follows:

Commencing at the northwest corner of said Section 10; thence along the north line of said Section 10, South 88°24'43" East 418.70 feet to the northwesterly corner of Book 177, Page 23, Columbia County Records, and Book 178, Page 289, Columbia County Records; thence along the westerly line of said deeds on the following three (3) courses: South 22°44'17" West 226.63 feet, South 67°15'43" East 290.00 feet, South 22°44'17" West 304.86 feet to the southwesterly corner of said deeds and the Point of Beginning; thence along the southerly line of said deeds, South 67°15'43" East 415.00 feet; thence leaving said southerly line, South 60°37'13" East 45.30 feet to the northwesterly right-of-way line of Portland & Western Railroad (50.00 feet from centerline); thence along said northwesterly right-of-way line (variable width from centerline), South 67°15'43" East 25.00 feet; thence continuing along said northwesterly right-of-way line (25.00 feet from centerline), South 22°44'17" West 483.03 feet; thence leaving said northwesterly right-of-way line, North 67°16'05" West 210.28 feet; thence South 22°36'40" West 265.41 feet; thence South 26°39'01" West 74.89 feet; thence South 22°36'40" West 358.39 feet; thence North 67°08'46" West 259.55 feet to the northeasterly corner of Parcel 2 of said Partition Plat No. 2020-03; thence along the northeasterly line of said Parcel 2, North 67°08'46" West 307.77 feet to the northwesterly corner of said Parcel 2; thence leaving said northwesterly corner, North 67°08'46" West 271.82 feet; thence South 23°34'28" West 171.98 feet; thence North 66°11'51" West 132.94 feet; thence North 23°34'28" East 447.31 feet; thence North 66°25'32" West 300.00 feet; thence North 29°41'18" East 252.62 feet to the intersection of the southwesterly right-of-way line of Kaster Road (60.00 feet in width) and the southeasterly right-of-way line of Franklin Street (60.00 feet in width); thence along said southeasterly right-of-way line, North 30°33'22" East 160.00 feet to the northeasterly right-of-way line of Franklin Street; thence leaving said northeasterly right-of-way line, North 82°22'39" East 574.48 feet; thence North 88°22'28" East 492.86 feet to the Point of Beginning.

The above described tract of land contains 29.69 acres, more or less.

The Basis of Bearings for this description are based on said Partiton Plat No. 2020-03.

6/25/2025

**REGISTERED
PROFESSIONAL
LAND SURVEYOR****OREGON
JANUARY 9, 2007
NICK WHITE
70652LS****RENEWES: 6/30/26**

Exhibit C-1

Replacement PSA Section 8(b) – Clean Copy

[See Attachment]

Exhibit C-1

Clean Copy – Restated Section 8(b) of the PSA

PSA Section 8:

“ (b) Prior to Closing, Purchaser and Seller shall negotiate in good faith the terms and conditions of an ancillary agreement (the “**Ancillary Agreement**”) that the parties will execute and deliver at Closing, pursuant to which the Parties hereto will agree upon the terms and conditions generally described in Sections 8(b)(i) through (v) below. At Closing, Purchaser and Seller execute, notarize, and deliver into Escrow the Ancillary Agreement, which shall be recorded by the Escrow Agent following recording of the Deed. The Ancillary Agreement shall contain the following terms:

(i) (i) After the Parties’ mutual execution of the Ancillary Agreement post-Closing, (x) Seller shall grant to Purchaser an easement granting Purchaser the right to control and utilize the river water intake pumps, screen(s), fresh water clarifiers (Clarifloculators), the fresh water filter plant, and supporting equipment (the “**Water Intake System**”) that provide fire suppression and process water to the Property (the “**Pump House Easement**”); and (y) Purchaser shall be granted a license that will allow Purchaser to use the primary effluent clarifier and support equipment located on Parcel 18 (the “**Clarifier System**”) for a period of five (5) years after Closing while Purchaser designs and builds a new effluent treatment system on or near the Premises (the “**Purchaser Clarifier System**”). The Parties shall negotiate the terms of such easement and license in good faith using their reasonable business discretion. If and for so long as Purchaser uses the Clarifier System, Purchaser shall be responsible for all maintenance and repair that may be reasonably necessary or appropriate in order to keep such system in good condition and repair. Purchaser’s use of the Clarifier System shall not be permitted to, at any time, violate the terms, conditions, requirements, and limitations set forth in any permits related to the use, operation, and maintenance of the Clarifier System. Purchaser will be solely responsible for, and will indemnify Seller against all claims, costs, expenses, loss, and liability, arising from or related to any violations and/or alleged violations of the National Pollutant Discharge Elimination System permit for the Clarifier System arising after the Closing date and execution of the Ancillary Agreement (including, without limitation, any costs by Seller incurred in responding to alleged violations arising during Purchaser’s exclusive operation of the Clarifier System). The Ancillary Agreement shall require Seller to grant to Purchaser an easement to connect the discharge of the Purchaser Clarifier System to the discharge pipe of the Clarifier System (the “**Purchaser System Easement**”), with the easement containing and being subject to such terms, limitations, and requirements of the Parties. The form of the Purchaser System Easement shall be attached to the Ancillary Agreement, and the easement shall be executed and recorded upon Purchaser’s commencement of construction of a Purchaser Clarifier System that complies with the requirements of the Ancillary Agreement (and the Purchaser System Easement). For clarity’s sake, with respect to the Purchaser Clarifier System, Purchaser shall not be allowed to connect to the “input” side of the existing Clarifier System; rather Purchaser will be required to bypass the current Clarifier System and shall connect to a new system on the “discharge” side of the existing clarifier system. In the event that Seller has, or anticipates having the in future, other users utilizing the Clarifier System after the Purchaser Clarifier System’s installations on such existing system, then Purchaser shall install a separate flow meter so that Purchaser’s effluent can be monitored and billed separately from other users.

(ii) The Ancillary Agreement shall address certain terms, conditions, and requirements pursuant to which Purchaser shall have the right to control and use the river water intake pumps and screen that are part of the "Water Intake System" that provide fire suppression and process water to the Property. The Ancillary Agreement with respect to Purchaser's assumption of control of Water Intake System shall include, without limitation: (x) pursuant to a water supply agreement between Seller and Purchaser, Seller providing Purchaser with water supply (for use as fire suppression and process water for the Property) equal to up to fifty percent (50%) of the total gallons per day of water supply that Seller is permitted from time to time to draw from the Willamette River and deliver to the Property and surrounding parcels of land pursuant to the applicable grant of water rights held by Seller (e.g., as of the date hereof, such amount is Forty Million (40,000,000) gallons per day, which results in no more than Twenty Million (20,000,000) gallons per day being available to Purchaser); (y) ensuring that any necessary maintenance and repairs to the same shall be performed by Purchaser; and (z) Purchaser expressly assumes all liability and obligations arising in connection with the provision of fire protection water to adjacent properties (as addressed in greater detail below in subsection (b)(iii)). For purposes of clarification, the water supply agreement is being provided by Seller because none of Seller's water rights that are useable at the Property will be conveyed at Closing. Should Seller receive notification that its water allocation will be reduced in any given year, Seller agrees to notify Purchaser within five (5) business days of receipt of such notice.

(iii) The fire protection system is designed for the operation of the paper mill and currently provides fire protection water to all certain adjacent properties currently connected to the fire protection water system. Purchaser must continue to operate the Water Intake System and the fire protection water system specifically in a manner to continue to provide such water to the adjacent connected properties until such time as Purchaser and the adjacent property owners reach an agreement to enable the separation of the fire protection system; provided, however, that Purchaser's obligations stated above shall be limited only to using the existing piping from the Property to the adjacent connected properties consistent with Seller's current practices at the Property. Purchaser intends to operate this such system within the requirements of Factory Mutual, Purchaser's insurance provider, as well as local and state fire codes and regulations; and to have on-site and third-party 24/7 fire monitoring. Notwithstanding any provision of this Agreement or the Ancillary Agreement to the contrary, Seller shall have no obligation to oversee Purchaser's use, control, maintenance, repair, and replacement of the Water Intake System and fire protection water systems, as all liability and responsibility with respect to such systems shall lie with Purchaser (who shall indemnify Seller against all liability, loss, cost, and expenses arising in connection with Purchaser's operations of the system). Nonetheless, if Seller requires access to the following items, in order to preserve any legal rights of Seller or to protect against any legal liabilities asserted against Seller, then in such event Purchaser shall make the following available for Seller's review Purchaser's: (i) fire protection monitoring system, (ii) fire protection preventative maintenance logs, as well as (iii) access to the pump houses and related equipment.

(iv) Purchaser shall be obligated to comply with all applicable stormwater permitting requirements and shall be solely responsible for addressing at its sole cost and expense all matters related thereto (including, without limitation, the overseeing all active onsite actions needed to comply with the Property's stormwater management plan), to maintain documentation regarding the same, and to provide Seller with copies of the same on such intervals as the Seller may require.

(v) With respect to any permits held or required in connection with the use and operation of the Property, whether held in Purchaser's name or Seller's, the Purchaser shall bear sole liability in connection with any violations of or non-compliance with any such permits, and

shall indemnify Seller against all claims, costs, losses, and expenses arising in connection with such violations and non-compliances.

Exhibit C-2

Replacement PSA Section 8(b) – Redline Copy

[See Attachment]

Exhibit C-2

Redline Copy – Restated Section 8(b) of the PSA

PSA Section 8:

“ (b) ~~During the Due Diligence Period~~Prior to Closing, Purchaser and Seller shall negotiate in good faith the terms and conditions of an ancillary agreement (the “**Ancillary Agreement**”) that the parties will execute and deliver at Closing, pursuant to which the Parties hereto will agree upon the terms and conditions generally described in ~~this Section 8(b)~~. ~~If the Parties fail to reach reasonable agreement upon the terms and conditions of the Ancillary Agreement prior to the end of the Due Diligence Period, then Buyer may elect to either (x) terminate this Agreement and receive a refund of the Earnest Money, or (y) proceed to Closing and be deemed to have waived the requirement that the Ancillary Agreement be executed by the Parties and delivered at Closing.~~Sections 8(b)(i) through (v) below. At Closing, Purchaser and Seller execute, notarize, and deliver into Escrow the Ancillary Agreement, which shall be recorded by the Escrow Agent following recording of the Deed. The Ancillary Agreement shall contain the following terms:

(i) ~~(i) After the Parties’ mutual execution of the Ancillary Agreement, post-Closing (x)~~ Seller shall grant to Purchaser an easement ~~from granting Purchaser the right to control and utilize~~ the river water ~~pump house to the freshwater clarifier (in a location to be mutually agreed upon) to facilitate the exercise of the rights granted to Purchaser in~~ intake pumps, screen(s), fresh water clarifiers (Clarifloculators), the Ancillary Agreement described in subsection (b)(ii) below fresh water filter plant, and supporting equipment (the “Water Intake System”) that provide fire suppression and process water to the Property (the “**Pump House Easement**”); and (y) Purchaser shall be granted a license that will allow Purchaser to use the primary effluent clarifier and support equipment located on Parcel 18 (the “**Clarifier System**”) for a period of five (5) years after Closing while Purchaser designs and builds a new effluent treatment system on or near the Premises (the “**Purchaser Clarifier System**”). The Parties shall negotiate the terms of such easement and license in good faith using their reasonable business discretion. If and for so long as Purchaser uses the Clarifier System, Purchaser shall be responsible for all maintenance and repair that may be reasonably necessary or appropriate in order to keep such system in good condition and repair. Purchaser’s use of the Clarifier System shall not be permitted to, at any time, violate the terms, conditions, requirements, and limitations set forth in any permits related to the use, operation, and maintenance of the Clarifier System. Purchaser will be solely responsible for, and will indemnify Seller against all claims, costs, expenses, loss, and liability, arising from or related to any violations and/or alleged violations of the National Pollutant Discharge Elimination System permit for the Clarifier System arising after the Closing date and execution of the Ancillary Agreement (including, without limitation, any costs by Seller incurred in responding to alleged violations arising during Purchaser’s exclusive operation of the Clarifier System). The Ancillary Agreement shall require Seller to grant to Purchaser an easement to connect the discharge of the Purchaser Clarifier System to the discharge pipe of the Clarifier System (the “**Purchaser System Easement**”), with the easement containing and ~~being~~ subject to such terms, limitations, and requirements ~~as of the parties~~ as of the parties. The form of the ~~New Purchaser~~ Purchaser System Easement shall be attached to the Ancillary Agreement, and the easement shall be executed and recorded upon Purchaser’s commencement of construction of a Purchaser Clarifier System that complies with the requirements of the Ancillary Agreement (and the Purchaser System Easement). For ~~clarity~~ clarity’s sake, with respect to the Purchaser Clarifier System, Purchaser shall not be allowed to connect to the “input” side of the existing Clarifier System; rather Purchaser will be required to

bypass the current Clarifier System and shall connect to a new system on the “discharge” side of the existing clarifier system. In the event that Seller has, or anticipates having in the future, other users utilizing the Clarifier System after the Purchaser Clarifier System’s installations on such existing system, then Purchaser shall install a separate flow meter so that Purchaser’s effluent can be monitored and billed separately from other users.

(ii) The Ancillary Agreement shall address certain terms, conditions, and requirements pursuant to which Purchaser ~~having~~ shall have the right to control and use the river water intake pumps and screen ~~(that are part of the “Water Intake System”)~~ that provide fire suppression and process water to the Property. The Ancillary Agreement with respect to Purchaser’s assumption of control of Water Intake System shall include, without limitation: (x) pursuant to a water supply agreement between Seller and Purchaser, Seller providing Purchaser with water supply (for use as fire suppression and process water for the Property) equal to up to fifty percent (50%) of the total gallons per day of water supply that Seller is permitted from time to time to draw from the Willamette River and deliver to the Property and surrounding parcels of land pursuant to the applicable grant of water rights held by Seller (e.g., as of the date hereof, such amount is Forty Million (40,000,000) gallons per day, which results in no more than Twenty Million (20,000,000) gallons per day being available to Purchaser); (y) ensuring that any necessary maintenance and repairs to the same shall be performed by Purchaser; and (z) Purchaser expressly assumes all liability and obligations arising in connection with the provision of fire protection water to adjacent properties (as addressed in greater detail below in subsection (b)(iii)). For purposes of clarification, the water supply agreement is being provided by Seller because none of Seller’s water rights that are useable at the Property will be conveyed at Closing. Should Seller receive notification that its water allocation will be reduced in any given year, Seller agrees to notify Purchaser within five (5) business days of receipt of such notice.

(iii) The fire protection system is designed for the operation of the paper mill and currently provides fire protection water to all certain adjacent properties currently connected to the fire protection water system. Purchaser must continue to operate the Water Intake System and the fire protection water system specifically in a manner to continue to provide such water to the adjacent connected properties until such time as Purchaser and the adjacent property owners reach an agreement to enable the separation of the fire protection system; provided, however, that Purchaser’s obligations stated above shall be limited only to using the existing piping from the Property to the adjacent connected properties consistent with Seller’s current practices at the Property. Purchaser intends to operate this such system within the requirements of Factory Mutual, Purchaser’s insurance provider, as well as local and state fire codes and regulations; and to have on-site and third-party 24/7 fire monitoring. Notwithstanding any provision of this Agreement or the Ancillary Agreement to the contrary, Seller shall have no obligation to oversee Purchaser’s use, control, maintenance, repair, and replacement of the Water Intake System and fire protection water systems, as all liability and responsibility with respect to such systems shall lie with Purchaser (who shall indemnify Seller against all liability, loss, cost, and expenses arising in connection with Purchaser’s operations of the system). Nonetheless, if Seller requires access to the following items, in order to preserve any legal rights of Seller or to protect against any legal liabilities asserted against Seller, then in such event Purchaser shall make the following available for Seller’s review Purchaser’s: (i) fire protection monitoring system, (ii) fire protection preventative maintenance logs, as well as (iii) access to the pump houses and related equipment.

(iv) Purchaser shall be obligated to comply with all applicable stormwater permitting requirements and shall be solely responsible for addressing at its sole cost and expense all matters related thereto (including, without limitation, the overseeing all active onsite actions needed to

comply with the Property's stormwater management plan), to maintain documentation regarding the same, and to provide Seller with copies of the same on such intervals as the Seller may require.

(v) With respect to any permits held or required in connection with the use and operation of the Property, whether held in Purchaser's name or Seller's, the Purchaser shall bear sole liability in connection with any violations of or non-compliance with any such permits, and shall indemnify Seller against all claims, costs, losses, and expenses arising in connection with such violations and non-compliances.

Exhibit D-1

Replacement Exhibit 8(a)-1 (Promissory Note Form)

[See Attachment]

PROMISSORY NOTE

\$2,932,563.28

August __, 2025

FOR VALUE RECEIVED, the undersigned (“Maker”) promise to pay to the order of CITY OF ST. HELENS, OREGON, a State of Oregon municipal corporation (herein “Holder”), at the time and place and in the manner provided herein, the principal sum of **Two Million Nine Hundred Thirty Two Thousand Five Hundred Sixty Three and 28/100 Dollars (\$2,932,563.28)**, together with interest and other sums as provided herein.

1. **Interest and Payment.**

1.1 **Interest Rate.** Maker promises to pay (on the schedule set forth in Section 1.2 below) interest accruing from and including the date hereof until maturity on the unpaid principal of this Note at a rate of eight percent (8.0%) per annum. Interest shall be computed on the basis of a three hundred sixty (360) day year, and a thirty (30) day month.

1.2 **Payments.** Maker shall not be obligated to commence making payments on principal or accrued interest hereunder until January 1, 2026. On January 1, 2026, all accrued but unpaid interest under this Note shall be added to the outstanding principal amount of this Note. Thereafter, this Note shall be repaid in equal monthly installments of outstanding principal (inclusive of any interest added to the principal balance), together with all interest that shall have accrued on such outstanding principal balance as of each monthly payment date. The first monthly installment of principal and interest shall be due and payable on February 1, 2026, and like installments shall be due and payable on the first day of each succeeding calendar month thereafter until January 31, 2031, on which date any unpaid principal, together with all accrued, unpaid interest hereon, shall mature and become finally due and payable.

1.3 **Default Interest Rate.** After maturity (whether by acceleration or otherwise) or on and after an event of default under this Note, any principal and interest not paid shall bear interest at the annual rate of ten percent (10%) over and above the rate which would otherwise apply hereunder, or the maximum amount which may be legally charged as interest, whichever is the lesser, until paid.

1.4 **Late Charge.** If any payment due hereunder is not made within fifteen (15) days of the date when first due, Maker shall pay to Holder a late charge in an amount equal to ten percent (10%) of the amount of such payment. Holder's acceptance of such late charges shall not constitute a waiver of any existing or subsequent default hereunder. Such late charge shall not be assessed against any balloon payment due hereunder at maturity, to the extent that the balloon is in excess of the regular monthly installments due hereunder.

1.5 **Place and Time of Payment.** All payments specified herein shall be deemed made when actually received by Holder. All payments shall be made to Holder at 265 Strand Street, St. Helens, Oregon 97051 (as such address may be updated upon written notice delivered by Holder to Maker in accordance with Section 4.10 of the Deed of Trust below) and shall be made without offset and without prior notice or demand.

1.6 **Form and Application of Payments.** Payments shall be in lawful money of the United States of America and when received by Holder shall be applied first to all amounts due hereunder other than principal or interest, second to accrued interest, third to the portion of the principal balance then due, if any, then fourth as a principal payment.

1.7 **Prepayment.** If, prior to December 31, 2026, either (i) Maker prepays this Note voluntarily, or (ii) the maturity date of this Note is accelerated in connection with a default by Maker, then in either instance Maker shall pay to Holder a prepayment fee equal to 1.0% of the original principal balance hereunder (\$29,325.63). From and after January 1, 2027, Maker may prepay this Note in whole or in part at any time without penalty or fee.

2. **Default.**

Time is of the essence of this Note. A default shall occur if:

2.1 **Failure to Make Payments.** Maker fails to make any payment under this Note within fifteen (15) days of the date due.

2.2 **Other Failures.** Maker fails to perform any other obligation contained in this Note or any covenant contained in any instrument securing payment of this Note or executed in connection herewith by Maker or a related party within fifteen (15) days after notice from Holder specifying the nature of the default; provided, however, that if such failure cannot be cured within such fifteen (15) day period despite commercially reasonable efforts, then the cure period shall be extended to provide Maker with a reasonable opportunity (not to exceed forty-five (45) days) to cure such failure provided that Maker: (i) promptly commence such cure upon notice from Holder, and (ii) diligently pursues completion of such cure until such cure is complete.

2.3 **Bankruptcy.** Maker becomes insolvent, a receiver is appointed to take possession of all or a substantial part of Maker's properties, Maker makes an assignment for the benefit of creditors or files a voluntary petition in bankruptcy, or Maker is the subject of an involuntary petition in bankruptcy.

3. **Remedies.**

In the event of a default, Holder, at its option, may take any one or more of the following steps:

3.1 **Acceleration.** Declare the entire unpaid principal balance of this Note, all accrued unpaid interest on this Note and all other costs and expenses due hereunder, to be immediately due and payable, and exercise any remedy available to Holder under this Note or any instrument evidencing or securing payment of this Note.

3.2 **Other Remedies.** Pursue any other right or remedy provided in this Note or otherwise allowed by law.

Holder may pursue any such rights or remedies singly, together or successively. Exercise of any such right or remedy shall not be deemed an election of remedies. Failure to

exercise any right or remedy shall not be deemed a waiver of any existing or subsequent default nor a waiver of any such right or remedy.

4. Attorneys' Fees and Collection Costs.

In the event of default under this Note, the Maker agrees to pay all costs and expenses, to the extent such costs and expenses are reasonable, which may be incurred by the Holder with respect to such default, including (without limitation) costs and expenses of investigating the same and circumstances and events surrounding or relating thereto, fees charged by and expenses of professional consultants and advisers, including attorneys and accountants, costs of searching records, obtaining title reports, surveyor's reports, attorneys' opinions, title insurance costs, trustee's fees, and all other reasonable expenses incurred by the Holder that are necessary at any time in Holder's opinion for the protection of its interest and the enforcement of its rights. Attorneys' fees shall include reasonable costs and expenses of legal advice with respect to the event of default and rights and remedies of Holder, negotiations with the Maker and any other parties in interest, attorneys' fees and expenses with respect to any action which Holder may commence or in which it might appear, whether for the purpose of protecting or preserving Holder's rights or to realize upon the lien of any security interest upon real or personal property, or both, by foreclosure or otherwise, and all attorneys' fees and expenses in any review of or appeal from any action and any other proceeding. Maker also agrees to pay any attorneys' fees incurred by Holder in connection with any bankruptcy or similar proceedings wherein Maker (as defined in Section 2.3) is the "debtor."

5. Governing Law, Usury; Severability.

5.1 Governing Law and Usury. This Note shall be construed and enforced in accordance with the laws of the State of Oregon. Maker and Holder intend to comply strictly with the applicable usury laws now or hereafter governing the consideration received under this Note. If the applicable law is ever interpreted so as to render usurious any consideration called for, contracted for, charged, taken, reserved or received with respect to this Note, or if any prepayment by Maker or Holder's exercise of the option herein contained to accelerate the maturity of this Note results in Maker having paid any interest in excess of that permitted by law, Maker and Holder agree that all excess amounts collected by Holder shall be credited on the principal balance of this Note (or, if this Note has been paid in full, refunded to Maker) and the provisions of this Note shall be deemed reformed and the amounts thereafter collectible on this Note reduced, without the necessity of the execution of any new documents, so as to comply with the then applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder. This Section 5.1 shall control and supersede any conflicting provision of this Note.

5.2 Severability. If any provision of this Note is found by a court of competent jurisdiction to be invalid or unenforceable as written, then the parties agree that: (a) such provision be enforceable to the full extent permitted by law, and (b) the invalidity or unenforceability of such provision shall not affect the validity and enforceability of the remainder of this Note.

6. Amendment.

This Note may not be amended, modified or changed, nor shall any provision of this Note be deemed waived, other than by an instrument in writing signed by the party against whom enforcement of any such waiver, amendment, change, or modification is sought.

7. Waivers; Joint and Several Liability.

Maker and all sureties and accommodation parties, without affecting their liability hereunder, hereby: (a) waive diligence, presentment, protest and demand, (b) waive notice of protest, of demand, of nonpayment, of dishonor and of maturity, and (c) consent to any extension or alteration of the time or terms of payment hereof, any and all renewals, extensions or modifications of the terms hereof, any release of all or any part of any security which may be given for the payment hereof, any acceptance of additional security of any kind, and any release of or resort to any party liable for payment hereof, any of which may be made without notice to any of said parties. All such parties, including Maker (as defined in Section 2.3 above) and each constituent person and entity of Maker, agree that they each shall be jointly and severally liable for full payment of this Note and agree to pay the full amount of the principal and interest of the indebtedness evidenced hereby. Unless and to the extent otherwise limited by the express terms of this Note, this Note is executed with recourse against the individual assets of all persons liable hereunder and against the separate properties and marital community estates of all persons who are personally liable on this Note, and the marital community estates of such persons' spouses.

8. Binding Agreement.

This Note shall be binding upon the heirs, lawful successors and assigns of Maker; provided, however, that in no event shall Maker be permitted to assign this Note without the prior written consent of Holder, which may be withheld, conditioned, or delayed in Holder's sole discretion.

9. Security.

This Note is secured by, among other instruments, a Deed of Trust of even date herewith, made by Maker in favor of Ticor Title Company of Oregon for the benefit of Holder and encumbering certain real property located in St. Helens, Oregon.

10. Warranties.

Maker warrants and represents to Holder that the proceeds of the loan evidenced hereby will be used for commercial purposes and will not be used for personal, consumer, residential or household purposes.

11. Construction.

This Note and the security documents and guaranties related hereto have been reviewed and negotiated by Maker, Holder and any guarantors with the benefit of or the opportunity to seek the assistance of legal counsel and shall not be construed against any party by presumption. The titles and captions contained in this Note are inserted for convenience and shall

not be deemed to define, limit, extend or modify any provision of this Note. All references to Holder herein shall include any successor or assign of Holder.

12. Notices.

Any notice required or permitted to be given under this Note may be given by depositing the same in the United States Mail, postage prepaid, by certified mail, return receipt requested, addressed to the Maker or Holder, as the case may be, at their respective addresses set forth in this Note. Either party may change its address for notices by giving the other party notice of the change. Any notice given in the manner set forth above shall be effective upon the expiration of two (2) business days after deposit in the United States Mail; notice given in any other manner shall be effective only upon receipt by the party for whom the same is intended.

UNDER OREGON LAW MOST AGREEMENTS, PROMISES, AND COMMITMENTS MADE BY LENDER CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION, AND BE SIGNED BY LENDER TO BE ENFORCEABLE.

[Signature On Following Page]

This Promissory Note has been executed as of the date and year first above written.

MAKER:

Arcadia Holdings, LLC

An Oregon limited liability company

By: _____

Name: _____

Title: _____

Maker Address:

1420 5th Ave Ste 3700

Seattle, WA 98101

Loan Amount: \$ 2,932,563.28 First 5 Mos. Pmt.: (74,291.60)
Interest Rate: 8% Amort. Pmt. (72,885.89)
of Mthly Pmt. Periods: 52.00

** NOTE: Payments in the "Prin. Pmt. Due" columns for November 1, 2026, through March 1, 2027 are on account of previously-accrued, but unpaid, "carried" interest, and payments in the "Int. Pmt. Due" column reflect newly accrued interest on the loan's original principal balance of \$2,932,563.28. Payment of princpal and interest commences on April 1, 2027, as provided in the Note.

	2025			2026			2027			2028		
	Principal	Interest Pmt.	Loan P & Car'd I.	Prin. Pmt. Due	Int. Pmt. Due	Loan P & Car'd I.	Prin. Pmt. Due	Int. Pmt. Due	Loan P & Car'd I.	Prin. Pmt. Due	Int. Pmt. Due	Loan P & Car'd I.
1-Jan	N/A	N/A	N/A	-	-	3,010,764.97	(54,741.18)	(19,550.42)	3,096,786.82	(56,622.28)	(16,263.62)	2,439,542.42
1-Feb	N/A	N/A	N/A	-	-	3,030,315.39	(54,741.18)	(19,550.42)	3,042,045.64	(56,999.76)	(15,886.13)	2,382,920.14
1-Mar	N/A	N/A	N/A	-	-	3,049,865.81	(54,741.18)	(19,550.42)	2,987,304.46	(57,379.76)	(15,506.14)	2,325,920.39
1-Apr	N/A	N/A	N/A	-	-	3,069,416.23	(53,335.47)	(19,550.42)	2,932,563.28	(57,762.29)	(15,123.60)	2,268,540.63
1-May	N/A	N/A	N/A	-	-	3,088,966.65	(53,691.04)	(19,194.85)	2,879,227.81	(58,147.37)	(14,738.52)	2,210,778.34
1-Jun	N/A	N/A	N/A	-	-	3,108,517.08	(54,048.98)	(18,836.91)	2,825,536.77	(58,535.02)	(14,350.87)	2,152,630.98
1-Jul	N/A	N/A	N/A	-	-	3,128,067.50	(54,409.31)	(18,476.59)	2,771,487.79	(58,925.25)	(13,960.64)	2,094,095.96
1-Aug	N/A	N/A	N/A	-	-	3,147,617.92	(54,772.03)	(18,113.86)	2,717,078.49	(59,318.09)	(13,567.80)	2,035,170.71
1-Sep	-	-	2,932,563.28	-	-	3,167,168.34	(55,137.18)	(17,748.71)	2,662,306.45	(59,713.54)	(13,172.35)	1,975,852.62
1-Oct	-	-	2,952,113.70	-	-	3,186,718.76	(55,504.76)	(17,381.13)	2,607,169.27	(60,111.63)	(12,774.26)	1,916,139.08
1-Nov	-	-	2,971,664.12	(54,741.18)	(19,550.42)	3,206,269.19	(55,874.79)	(17,011.10)	2,551,664.51	(60,512.37)	(12,373.52)	1,856,027.45
1-Dec	-	-	2,991,214.55	(54,741.18)	(19,550.42)	3,151,528.00	(56,247.29)	(16,638.60)	2,495,789.71	(60,915.79)	(11,970.10)	1,795,515.07

(First Day of each month)

	2029			2030			2031		
	Prin. Pmt. Due	Int. Pmt. Due	Loan P & Car'd I.	Prin. Pmt. Due	Int. Pmt. Due	Loan P & Car'd I.	Prin. Pmt. Due	Int. Pmt. Due	Loan P & Car'd I.
1-Jan	\$ (61,321.90)	\$ (11,564.00)	1,734,599.28	(66,411.58)	(6,474.31)	971,146.21	(71,923.71)	(962.18)	144,326.91
1-Feb	\$ (61,730.71)	\$ (11,155.18)	1,673,277.39	(66,854.33)	(6,031.56)	904,734.63	(72,403.20)	(482.69)	72,403.20
1-Mar	\$ (62,142.25)	\$ (10,743.64)	1,611,546.68	(67,300.02)	(5,585.87)	837,880.30	-	-	-
1-Apr	\$ (62,556.53)	\$ (10,329.36)	1,549,404.43	(67,748.69)	(5,137.20)	770,580.28			
1-May	\$ (62,973.57)	\$ (9,912.32)	1,486,847.90	(68,200.35)	(4,685.54)	702,831.59			
1-Jun	\$ (63,393.40)	\$ (9,492.50)	1,423,874.33	(68,655.02)	(4,230.87)	634,631.24			
1-Jul	\$ (63,816.02)	\$ (9,069.87)	1,360,480.93	(69,112.72)	(3,773.17)	565,976.23			
1-Aug	\$ (64,241.46)	\$ (8,644.43)	1,296,664.92	(69,573.47)	(3,312.42)	496,863.51			
1-Sep	\$ (64,669.73)	\$ (8,216.16)	1,232,423.46	(70,037.29)	(2,848.60)	427,290.04			
1-Oct	\$ (65,100.87)	\$ (7,785.02)	1,167,753.72	(70,504.21)	(2,381.69)	357,252.75			
1-Nov	\$ (65,534.87)	\$ (7,351.02)	1,102,652.86	(70,974.23)	(1,911.66)	286,748.55			
1-Dec	\$ (65,971.77)	\$ (6,914.12)	1,037,117.98	(71,447.40)	(1,438.50)	215,774.31			

(First Day of each month)

Exhibit D-2

Replacement Exhibit 8(a)-2 (Deed of Trust Form)

[See Attachment]

DEED OF TRUST

AFTER RECORDING RETURN TO:

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

Dated August ___, 2025

Grantor: Arcadia Holdings, LLC, an Oregon limited liability company

Trustee: Ticor Title Company of Oregon, an Oregon corporation

Beneficiary: City of St. Helens, an Oregon municipal corporation

ADDITIONAL STATUTORY NOTICES:

- (a) The address of the entity holding a lien or other interest created by this instrument is:
265 Strand Street
St. Helens, Oregon 97051
- (b) The tax account number(s) for the property subject to the lien or in which the interest is created is/are: 4109-00-00100 and 4109-00-00101
- (c) Type of transaction: Creation of deed of trust lien and security interests encumbering the property or properties described herein.
- (d) Consideration Amount: \$2,932,563.28 (loan amount secured by deed of trust lien)

THIS DOCUMENT CONSTITUTES A FIXTURE FILING IN ACCORDANCE WITH THE
UNIFORM COMMERCIAL CODE.

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

This Deed of Trust is made and executed this August _____, 2025, by **Arcadia Holdings, LLC**, an Oregon limited liability company, as grantor ("Grantor"), whose address is 1420 5th Ave Ste 3700, Seattle, Washington 98101, in favor of **Ticor Title Company of Oregon**, an Oregon corporation, as trustee ("Trustee"), whose address is 2534 Sykes Road, Suite C, St. Helens, Oregon 97051, for the benefit of **City of St. Helens**, an Oregon municipal corporation, as beneficiary ("Beneficiary"), whose address is 265 Strand Street, St. Helens, Oregon 97051.

Recitals

Grantor is the owner of fee simple title to the real property described on Exhibit A attached hereto. This Deed of Trust is given to secure payment and performance of a promissory note of even date herewith (the "Note") made by Grantor and payable to Beneficiary in the principal sum of **Two Million Nine Hundred Thirty Two Thousand Five Hundred Sixty Three and 28/100 Dollars** (\$2,932,563.28), together with interest as set forth therein. The final payment of principal under the Note is due and payable on January 31, 2031, subject to any extension privileges, if any, set forth in the Note.

This Deed of Trust is further given to secure: (i) payment and performance of any renewals, extensions, substitutions and modifications of the Note and future advances under the Note; and (ii) payment and performance of any other indebtedness or obligation of Grantor to Beneficiary now or hereafter arising under the terms hereof, the terms of the Note or the terms of any other agreement constituting additional security for the Note, including future advances.

Agreement

Therefore, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. **Grant and Conveyance.** For the purposes set forth in the Recitals, Grantor irrevocably grants, conveys, bargains and sells to Trustee, in trust, with power of sale, all of Grantor's right, title and interest, whether now owned or hereafter acquired, in and to the following described properties, and all income, revenues and profits derived from such items of property (all sometimes referred to herein collectively as the "Premises"):

1.1 **The Real Property.** The real property described on Exhibit A attached hereto, together with all rights, interests and hereditaments appurtenant thereto (the "Real Property");

1.2 **The Improvements.** All buildings, structures, fixtures and other improvements of every kind and nature now or hereafter located on or about the Real Property, together with all renewals, replacements, substitutions, accessions, additions and products thereof (the "Improvements");

1.3 Intentionally Omitted.

1.4 Leases. All of Grantor's right, title and interest in and to all lease, occupancy and rental agreements for occupants, tenants and lessees of the Real Property or Improvements, whether now or hereafter existing (the "Tenant Leases"); and

1.5 Proceeds. All insurance and condemnation proceeds and awards (including title insurance proceeds) related to the Premises or any interest in the Premises, regardless of form or generation and regardless of the source of payment, and all proceeds (of any generation) of any of the items of property included in the Premises (the "Proceeds").

The parties intend that Beneficiary shall have a security interest in all of the operating revenues of the Premises, whether those revenues are deemed to be derived from or related to the Real Property or the Improvements.

2. Grantor's Covenants and Warranties. Grantor warrants, covenants and agrees with and to Trustee and Beneficiary as follows:

2.1 Title. Grantor warrants that Grantor is the absolute legal and equitable owner of, and has good and marketable title to, the Real Property. This Deed of Trust is and shall remain a valid and enforceable first lien on the Premises free of all liens, claims, security interests, encumbrances, easements and restrictions except the special exceptions set forth in the mortgagee's policy of title insurance issued to and approved by Beneficiary in connection with this transaction (the "Permitted Exceptions"). Grantor has full power and authority to convey the Premises in the manner and form herein conveyed. Grantor and its successors and assigns shall warrant and defend such title to the Premises forever against all claims and shall promptly perform all of the obligations to be performed hereunder and under the Permitted Exceptions. Grantor shall furnish to Beneficiary written notice of any litigation, lien, or notice of default affecting the Premises when received. Grantor shall, at its cost, do all further acts, and shall execute and deliver all further documents as Beneficiary shall from time to time require to perfect, continue, assure, convey and confirm the Premises to the Trustee or Beneficiary.

2.2 Payment and Performance.

(a) Payment of Secured Obligations. The Note and all other obligations set forth in the Recitals, including all obligations and duties of Grantor hereunder, are collectively referred to as the "Secured Obligations." Grantor shall pay and perform as and when due all of the Secured Obligations without offset and without prior notice or demand, but in all events subject to all applicable notice and cure periods.

(b) Permitted Exceptions. Grantor shall pay and perform, as and when due, all obligations set forth in or evidenced or secured by the Permitted Exceptions and keep the same free from default.

(c) Payment of Taxes. Grantor shall pay, when prior to delinquency and prior to accrual of interest or penalties, all Taxes (as defined below) with respect to the

Premises. Upon demand, Grantor shall provide Beneficiary with evidence, satisfactory to Beneficiary, that such payments have been made. “Taxes” shall mean and include, without limitation, all personal and real property taxes, assessments and impositions, whether public or private, of any kind, levied, assessed or imposed upon the Premises or any portion thereof. In the event of default by Grantor under any instrument evidencing or securing payment of the Secured Obligations, Beneficiary, at its option, may require Grantor to maintain reserves for payment of Taxes or premiums on insurance required hereunder, or both. The reserve shall be created by initial payment and subsequent monthly payment to Beneficiary of an amount determined by Beneficiary to be sufficient to produce, at least thirty (30) days before they are due, amounts equal to or in excess of the Taxes or insurance renewal premiums to be paid. If, at the time payments are to be made, the reserve is insufficient or would be rendered insufficient, Grantor shall upon demand pay such additional sum as Beneficiary shall determine to be necessary. Beneficiary shall not be required to pay any interest with respect to any reserves and shall be entitled to commingle such reserves with other funds of Beneficiary, to the extent permitted to do so by applicable law.

2.3 Construction, Maintenance and Repair. Without limiting Grantor’s obligations under any other agreement executed in favor of Beneficiary, Grantor shall keep the Real Property and Improvements in good operating order, repair and condition, ordinary wear and tear excepted, and shall not commit or permit any waste thereof. Grantor, at its cost, shall make all repairs necessary to the Real Property and Improvements and shall complete and restore promptly and in good and workmanlike manner any portion of the same which may be damaged or destroyed, and pay, when due, all costs incurred in connection therewith regardless of whether sufficient proceeds are available to pay such costs; the same shall be restored and repaired so as to be at least equal in value and of substantially the same character as existed prior to such damage or destruction. Grantor shall not demolish any of the Improvements (including any real property fixtures), save and except for any redevelopment of the Property that has been approved by Grantor, in its reasonable discretion.

2.4 Compliance with Laws. Grantor shall comply with all laws, ordinances, regulations, easements, agreements, covenants, conditions and restrictions now or hereafter affecting the Premises or the use or operation thereof. Grantor shall not cause, permit or suffer any violation of any of the foregoing and shall pay all fees or charges of any kind in connection therewith. Grantor shall indemnify and hold Beneficiary, its officers, directors, employees, members and agents (the “Beneficiary Parties”), and the Premises, harmless from any claim, cost, damage or expense, including attorney fees and penalties, with respect to any breach or alleged breach of the covenants set forth in this Section 2.4.

2.5 Insurance.

(a) Obligation to Insure. Grantor shall provide, maintain and keep in force, at its own cost and expense, the following policies of insurance, and such other insurance (including, without limitation, flood and earthquake insurance) as Beneficiary reasonably may require from time to time against the same or other hazards:

(i) Property Insurance. Property insurance (including earthquake and flood coverages) against loss or damage to the Real Property and the Improvements by fire and any and all of the risks covered by insurance of the type known as of the date hereof

as "special form," in an amount not less than one hundred percent (100%) of the full replacement cost of the Improvements, as determined from time to time by Beneficiary, without deduction for depreciation. The amount deductible from the loss payable for any casualty shall be approved by Beneficiary and such deductible shall be the obligation of Grantor. Such policy of insurance shall be maintained for and name Grantor and Beneficiary as insureds, as their respective interests may appear, and shall contain the "replacement cost endorsement," and a lender's loss payable endorsement in favor of Beneficiary in form reasonably acceptable to Beneficiary.

(ii) Liability Insurance. Comprehensive commercial general liability insurance, including Products and Completed Operations coverage, on an "occurrence basis" insuring against claims for bodily injury, death or property damage occurring in, on or about the Real Property and Improvements and adjoining streets, sidewalks and passageways arising out of or in any way connected with the use, occupancy, possession, ownership or condition of the same. The limits of such coverage shall be no less than Two Million Dollars (\$2,000,000) per occurrence. Such policy shall insure performance of Grantor's indemnity obligations under this Deed of Trust and shall name Beneficiary as an additional insured, providing coverage for Beneficiary regardless of whether the asserted claim is also asserted against Grantor.

(iii) Builder's Risk Insurance. During the course of any construction or repair at the Premises, builder's risk insurance against all risks of physical loss, on a completed value basis, including collapse and transit coverage, with a deductible approved by Beneficiary, covering the total value of work performed and equipment, supplies and materials furnished, and containing the "permission to occupy upon completion of work" endorsement.

(b) Exculpation; General Provisions Related to All Policies. Neither Trustee nor Beneficiary shall be obligated to obtain insurance, nor be responsible for the collection of any insurance monies or for any insolvency of any insurer or insurance underwriter. All policies of insurance required by this Deed of Trust: (i) shall contain an endorsement or an agreement of the insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act of negligence of Grantor or Beneficiary which might otherwise result in forfeiture of said insurance and further waiving all rights of setoff, subrogation, counterclaim or deductions against Beneficiary; (ii) shall be issued in amounts no less than those specified in this section and shall be issued by companies acceptable to Beneficiary; (iii) shall be issued by insurance companies reasonably acceptable to Beneficiary; and (iv) shall contain a provision that such policies will not be cancelled or amended, or be subject to any reduction in the scope or limits of coverage, without at least thirty (30) days prior written notice to Beneficiary.

(c) Delivery of Insurance Policies, Payment of Premiums. Grantor shall furnish Beneficiary with a copy of each policy of insurance required hereunder and a certificate of each policy of insurance required hereunder evidencing the required coverage, each such certificate setting forth the coverage, the limits of liability, the name of the carrier, the policy number and the expiration date. At least thirty (30) days prior to the expiration of each such policy, Grantor shall furnish Beneficiary evidence of the reissuance of such policy continuing insurance in force as required by this Deed of Trust. In the event any such insurance policy or evidence of

payment of premium are not so delivered to Beneficiary as required hereunder, Grantor, by executing this Deed of Trust, specifically requests Beneficiary to obtain and pay for, and Beneficiary may obtain and pay for, such insurance for such risks covering Beneficiary's interest in the Premises (without notice to or demand upon Grantor and without releasing Grantor from any obligation hereunder), and Grantor shall pay all premiums thereon promptly upon demand by Beneficiary, and until such payment is made by Grantor the amount of all such premiums together with interest thereon at the Advance Rate (defined in Section 2.10) from the date of payment by Beneficiary shall be secured by this Deed of Trust.

WARNING

UNLESS YOU (GRANTOR) PROVIDE US (BENEFICIARY) WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR LOAN AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPERTY COVERAGE ELSEWHERE.

YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR CONTRACT OR LOAN BALANCE. IF THE COST IS ADDED TO YOUR CONTRACT OR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF COVERAGE.

THE COVERAGE WE PURCHASE MAY BE CONSIDERABLY MORE EXPENSIVE THAN INSURANCE YOU CAN OBTAIN ON YOUR OWN AND MAY NOT SATISFY ANY NEED FOR PROPERTY DAMAGE COVERAGE OR ANY MANDATORY LIABILITY INSURANCE REQUIREMENTS IMPOSED BY APPLICABLE LAW.

(d) Casualty Insurance Proceeds. If all or any part of the Premises is damaged or destroyed, then all proceeds of insurance shall be payable and paid to Beneficiary, and the net amount of the same (meaning all such proceeds received by Beneficiary less costs incurred by Beneficiary in the collection thereof, including, without limitation, attorney fees) shall be, at Beneficiary's election and in Beneficiary's sole and absolute discretion, either applied to the Secured Obligations or made available to Grantor to be used to restore the damaged property, as provided below.

(i) Application of Insurance Proceeds to Indebtedness. Any proceeds to be applied to the Secured Obligations shall be applied first against all amounts due

hereunder or under the Note other than principal or interest, second against accrued, unpaid interest on the Note, and third against the principal balance of the Note. No such application shall excuse or reduce the amount of any regular payment required under the terms of any document related to the Secured Obligations. Grantor hereby authorizes and directs any affected insurance company to make payment of such insurance proceeds directly to Beneficiary. If the Premises are materially damaged by a casualty and Beneficiary elects to apply insurance proceeds to the Secured Obligations pursuant to the terms hereof, then Beneficiary, at its option, may elect to accelerate the Secured Obligations and declare the same to be due and payable.

(ii) Disbursement of Insurance Proceeds for Restoration. If Beneficiary elects to permit Grantor to use insurance proceeds to rebuild the Premises, the disbursement of such proceeds shall be made by Beneficiary incrementally as work is completed and subject to such conditions as Beneficiary may impose in its absolute discretion. The proceeds to be made available for restoration will be the net proceeds remaining after deducting all expenses of collection of the proceeds, including attorney fees. The determination of Beneficiary whether to permit restoration will include, among other matters, a determination by Beneficiary, in its sole discretion, that restoration is feasible with the proceeds available and that restoration will result in reconstructed Premises equal in quality and condition to the Premises in existence prior to the destruction and that the value of the Premises as restored will exceed the unpaid balance of the Secured Obligations.

(iii) No Limit on Grantor's Obligations. Nothing herein contained shall excuse Grantor from repairing or maintaining the Premises, as provided in Section 2.3 or restoring all damage or destruction to the same, regardless of the existence, payment or adequacy of insurance proceeds.

(iv) Proof of Loss; Right to Settle. Grantor shall give prompt written notice to Beneficiary of any casualty to all or part of the Real Property or Improvements. Beneficiary may make proof of loss if Grantor fails to do so within thirty (30) days of the casualty, but in all events Beneficiary may make proof of loss within the time period required to protect the rights of the insureds under any policy of insurance if Grantor fails to do so. Beneficiary is authorized at its option to either: (A) settle and adjust any claim under such policies with the consent of Grantor (except that, after any event of default, no consent of Grantor shall be required), or (B) allow Grantor to agree with the insurance company or companies on the amount to be paid upon the loss; and in any case Beneficiary shall, and is authorized to, collect and receipt for any such insurance proceeds; and the reasonable expenses incurred by Beneficiary in the adjustment and collection of insurance proceeds shall be deducted from said proceeds and reimbursed to Beneficiary.

(e) Assignment of Insurance Policies Upon Foreclosure. Grantor assigns to Beneficiary all unearned premiums under all insurance policies required hereunder and agrees that in the event of foreclosure of this Deed of Trust or other transfer of title or assignment of the Premises in extinguishment, in whole or in part of the debt secured hereby, all right, title and interest of Grantor in and to all policies of insurance required hereunder shall inure to the

benefit of and pass to the successor in interest to Grantor or the purchaser or grantee of the Premises.

(f) Waiver and Release. All terms of the Secured Obligations shall be paid and performed without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction.

2.6 Condemnation. The Grantor, immediately upon obtaining knowledge of any contemplated condemnation of the Premises or any portion thereof, or of the institution of any proceeding for the condemnation of the Premises or any portion thereof, shall notify Beneficiary of the pendency thereof. Grantor assigns, transfers and sets over to Beneficiary all compensation, rights of action, the entire proceeds of any award and any claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation or by sale in lieu thereof. Beneficiary may, at its option, commence, appear in and prosecute, in its own name, any action or proceeding, or make any compromise or settlement, in connection with such condemnation, taking under the power of eminent domain or sale in lieu thereof. After deducting therefrom all of its expenses, including attorney fees, the net proceeds of the award which have been paid to Beneficiary shall be applied to the payment of the indebtedness secured hereby, or, at the election of Beneficiary, in Beneficiary's sole and absolute discretion, may be made available to Grantor for restoration or rebuilding of the Premises if such restoration is feasible in such a way as to restore the Premises to the same use and at least the condition and quality as the Premises existed prior to the condemnation, the value of which shall exceed the sum of the then unpaid balance of the debt secured hereby. Any such condemnation proceeds made available to Grantor by Beneficiary shall be advanced to Grantor under a disbursement system designated by Beneficiary. To the extent that such proceeds are paid to Beneficiary but are either not made available to Grantor under the preceding sentence, or are not used by Grantor for such purpose within one hundred eighty (180) days, such proceeds shall be applied to the indebtedness and obligations secured hereby in the manner set forth in Section 2.5(d)(i). Beneficiary, at its option, may declare the Secured Obligations to be entirely due and payable if the condemnation materially affects the Premises or the use thereof and the proceeds are not made available to Grantor for rebuilding. Grantor agrees to execute such further assignments of any compensation, award, damages, right of action and proceeds as Beneficiary may require. Notwithstanding the foregoing, in no event shall the terms of this Section 2.6 be deemed to relieve Beneficiary of any liability that may exist pursuant to the PSA (if any) in connection with a breach of Beneficiary's representations and warranties contained therein.

2.7 Liens and Encumbrances. Grantor shall pay, prior to delinquency, all obligations, lawful claims or demands of any person which, if unpaid, might result in, or permit the creation of, a lien or encumbrance on the Premises or any portion thereof, including all claims of contractors, laborers, suppliers and others for work or labor performed or materials or supplies furnished or rented in connection with any work, alteration, improvement of or construction upon the Premises; provided, however, that in the event Grantor disputes the amount or validity of any claim which constitutes a lien or encumbrance on the Premises, Grantor may contest such claim provided, that: (a) Grantor gives to Beneficiary prior written notice of such contest; (b) Grantor causes such lien to be removed, by bond or deposit as allowed by applicable law, from the Premises within fifteen (15) days of the filing of such lien or claim; (c) Beneficiary's interest in the Premises

and/or the lien of this Deed of Trust are not, in Beneficiary's sole opinion, jeopardized thereby; and (d) Grantor promptly pays any amount ultimately determined to be due.

2.8 Indemnification. Grantor shall appear in and defend any suit, action or proceeding that, in the sole judgment of Beneficiary, may affect the value of the Premises, the title to the Premises or the rights and powers of Trustee or Beneficiary. Grantor shall indemnify Beneficiary, the Beneficiary Parties and Trustee from and against any claim, loss, cost, damage or expense (including attorney fees) arising out of or related to this Deed of Trust, the Premises or the condition (whether now existing or hereafter arising) thereof. The indemnity obligations of Grantor shall survive the reconveyance or foreclosure hereof.

2.9 Sale of Premises. In addition to any other right available hereunder, at law or in equity, Beneficiary may declare all sums secured hereby immediately due and payable if, without Beneficiary's prior written consent: (a) Grantor sells, assigns, transfers, conveys, contracts or agrees to sell (as by execution of a land sale contract), enters into a complete lease, a master lease, or a ground lease with respect to, encumbers, mortgages, assigns for security purposes, or otherwise disposes of, hypothecates or alienates, voluntarily or involuntarily, all or any part of the Premises or any interest of Grantor therein, except as allowed under the terms hereof; (b) Grantor suffers title to or any interest in the Premises to be divested, whether voluntarily or involuntarily; (c) if any party comprising Grantor is a partnership (general or limited) or a joint venture and any portion of any general partnership interest of any general partner or joint venture interest of such party is sold, transferred, mortgaged or otherwise disposed; (d) if Grantor is any form of cotenancy and any portion of the interest of any cotenant is sold, transferred, mortgaged or otherwise disposed; (e) if Grantor or any general partner of Grantor or any cotenant of Grantor is a privately held corporation (*i.e.*, a corporation whose stock is not publicly traded on a stock exchange) or a limited liability company and twenty-five percent (25%) or more, in the aggregate, of the capital stock or ownership of any such corporation or limited liability company is sold, transferred, hypothecated or otherwise disposed; or (f) if any party comprising Grantor is a trust, and such trust is dissolved or liquidated or extraordinary distributions of the assets of such trust are made. The foregoing acts are herein referred to as a "Sale" and a Sale without the prior written consent of Beneficiary shall be an Event of Default hereunder. Beneficiary may withhold such consent in its sole and absolute discretion. Any consent by Beneficiary to one Sale shall not constitute a waiver of Beneficiary's rights hereunder with respect to any subsequent Sale. In the event of a Sale which is a conveyance without the prior written approval of Beneficiary, the Beneficiary may, without notice to the Grantor, deal with such successor or successors in interest with reference to this Deed of Trust and the Note in the same manner as with Grantor, without in any way releasing, discharging or otherwise affecting the liability of Grantor hereunder or under the Note or any other document evidencing or securing any Secured Obligation. No Sale shall affect Grantor's obligation to perform each term and provision hereof, nor release Grantor from any liability hereunder.

2.10 Advances. If Grantor shall fail to perform (and such failure continues beyond all applicable notice and cure periods) any of the covenants contained herein, in the Note, in any instrument constituting additional security for the Note, in any Permitted Exception, or in any document evidencing or securing any Secured Obligation, Beneficiary may, but without obligation to do so, make advances to perform same on behalf of Grantor, and all sums so advanced shall be secured by this Deed of Trust. Grantor shall repay on demand all sums so advanced in its

behalf with interest at the rate of eighteen percent (18%) per annum or the highest rate permitted to be charged by applicable law, whichever is the lesser (the "Advance Rate"), from the date of expenditure until the date repaid. Nothing herein contained shall prevent any such failure to perform on the part of Grantor from constituting an Event of Default and no exercise by Beneficiary of any right hereunder shall constitute a waiver of such Event of Default.

2.11 **Time.** Beneficiary, Grantor and Trustee agree that time is of the essence with respect to all their respective obligations under this Deed of Trust.

2.12 **Assignment of Rents, Leases and Income from Operations.** As additional security, Grantor assigns to Beneficiary all rents, income, revenues and profits arising from the Premises, and all of Grantor's right, title and interest in and to the Tenant Leases, including rent, if any, which flow directly from the Premises and all rents, and room rates derived from any operations on the Premises. Grantor shall have the right to collect, retain and use rentals from the Premises prior to an Event of Default. This assignment shall not operate to place the responsibility for the control, care, management, or repair of the Premises upon Beneficiary. Upon an Event of Default, Beneficiary shall have the right, at its election, independently or through a receiver, to collect the rents, income and profits arising from the Premises, without impairing any other right of Beneficiary. Grantor covenants and agrees that it shall promptly and faithfully perform, or cause to be performed, all of the covenants, conditions and agreements contained in all Tenant Leases that may exist from time to time on the part of the lessor thereunder to be kept and performed. Beneficiary shall have no obligation to collect rents or any other items of income or to perform any obligation with respect to any Tenant Lease that may exist from time to time. Following the occurrence of any Event of Default, Beneficiary may require Grantor to hold all rents and any items of income described herein in trust for Beneficiary, without commingling, and deliver the same to Beneficiary. In the event Beneficiary or a receiver collects rents or such items of income, then Grantor irrevocably appoints Beneficiary as its attorney-in-fact, deemed coupled with an interest, to demand, collect, receive, receipt for, sue for and recover all rents and income, to negotiate checks in connection with the foregoing, and to settle or compromise claims related to any Tenant Leases that may exist from time to time.

2.13 **Intentionally Omitted.**

2.14 **Inspections.** Beneficiary, and its agents, representatives and workmen, are authorized, but not obligated, to enter at any reasonable time upon or in any part of the Premises for the purpose of inspecting the same, and for the purpose of performing any of the acts it or Grantor is authorized to perform under the terms of this Deed of Trust.

2.15 **Imposition of Tax.** The enactment of any tax upon this Deed of Trust (whether chargeable against an owner, mortgagee or holder of an indebtedness) or upon all or any part of the Secured Obligations shall constitute an Event of Default, and Beneficiary may exercise any remedy available to it in the case of an Event of Default, unless Grantor: (a) lawfully pays the tax or charge, or reimburses Beneficiary therefor, and (b) agrees, in writing, within thirty (30) days after notice from Beneficiary that the tax law has been enacted, to pay the tax or charge or reimburse Beneficiary therefor.

2.16 **Land Use Matters.** Grantor warrants that: (a) the Real Property and Improvements do and shall at all times comply with the applicable zoning ordinance and comprehensive plan (and any overlay zoning ordinances or other land use control laws and ordinances), and all applicable land use permits and approvals, and (b) the Improvements and uses thereof are and shall be uses permitted as of right. Grantor shall not cause any zone change or comprehensive plan change with respect to the Real Property or the Improvements, submit the Premises to any form of condominium or planned community ownership, cause or allow any subdivision or partition with respect to the Premises or consent to the inclusion of the Premises in a special or local improvement district, without in each instance, obtaining the prior written consent of Beneficiary, which may be withheld by Beneficiary in its sole and absolute discretion.

2.17 **Utilities.** Grantor shall pay or cause to be paid when due all utility charges which are incurred by Grantor or others for the benefit of or for service to the Premises or which may become a charge or lien against the Premises for gas, electricity, water, sewer or other utility services furnished to the Premises and all other assessments or charges of a similar nature, whether public or private, affecting the Premises or any portion thereof.

3. **DEFAULT.**

3.1.1 **Events of Default.** The following, in addition to all other acts, events, and conditions declared to be events of default herein, are events of default hereunder ("Events of Default"):

(a) The occurrence of any event of default with respect to the Note or any other instrument or agreement which evidences or secures any of the Secured Obligations other than this Deed of Trust.

(b) Failure by Grantor to make any payment to Beneficiary when due in accordance with the terms of this Deed of Trust; provided, however, that no more frequently than once in any twelve (12) month period, Beneficiary shall provide Grantor with written notice of a default under this Section 3.1.1.(b) and a five (5) day period after such notice within which to cure the default identified in the notice.

(c) Failure by Grantor to perform any of the terms, covenants and conditions set forth in this Deed of Trust, other than the obligations mentioned in Sections 3.1(a) and (b), within fifteen (15) days of receipt of written notice from Beneficiary regarding the same; provided, however, that if such failure cannot be cured within such fifteen (15) day period despite commercially reasonable efforts, then the cure period shall be extended to provide Grantor with a reasonable opportunity (not to exceed forty-five (45) days) to cure such failure provided that Grantor (i) promptly commence such cure upon notice from Beneficiary, and (ii) diligently pursues completion of such cure until such cure is complete. Notwithstanding the foregoing, Grantor will not be granted a notice and cure period under this subsection (c) that would jeopardize Beneficiary's interest in the Premises or Beneficiary's ability to collect all amounts secured hereby.

(d) Breach of any warranty or representation given by Grantor to Trustee or Beneficiary.

(e) Without implying consent of Beneficiary to the creation of any lien encumbering the Premises, institution of foreclosure or other proceedings (either judicial or nonjudicial) to enforce any security interest or other lien or encumbrance (junior or senior) of any kind upon the Premises or any portion thereof or interest therein.

(f) Grantor or any successor or assign thereof: (i) files a voluntary petition in bankruptcy or for an arrangement or reorganization pursuant to the Federal bankruptcy statutes, or any similar law, state or Federal ("Bankruptcy Proceeding"); (ii) is the object of any involuntary Bankruptcy Proceeding which is not stayed or dismissed within sixty (60) days of filing; (iii) is adjudicated a bankrupt or declared insolvent in any Bankruptcy Proceeding; (iv) has a trustee or receiver appointed for it or has any court take jurisdiction of any of its property in any reorganization, arrangement, dissolution or liquidation proceeding, unless such trustee or receiver is discharged or if such jurisdiction be relinquished or vacated within thirty (30) days of appointment or commencement; or (v) makes an assignment for the benefit of its creditors or consents to an appointment of a receiver or trustee of any of its property.

(g) The occurrence or existence of any default (after passage of any applicable cure period) under any Permitted Exception.

3.2 Remedies. In addition to any other rights and remedies provided herein, in the Note, in any document evidencing or securing the Secured Obligations, or available at law or in equity, Beneficiary shall have the following rights and remedies upon the occurrence of any Event of Default:

(a) Acceleration. Beneficiary, by written notice given to Grantor, may declare the entire principal of the Note then outstanding, and all accrued and unpaid interest thereon, and all other Secured Obligations, to be due and payable immediately.

(b) Possession and Receiver. The Trustee or Beneficiary, personally or by its agents or attorneys, or through a duly appointed receiver, may enter into and upon all or any part of the Premises, and each and every part thereof, and may exclude the Grantor and its agents wholly therefrom; and may possess, use, operate, manage, improve and control the Premises. Trustee or Beneficiary shall be entitled to collect and receive all earnings, revenues, issues, profits and income of the Premises whether or not Beneficiary, Trustee, or a receiver is then in possession of the Premises. Beneficiary shall be entitled to the appointment of a receiver as a matter of right, whether or not the apparent value of the Premises exceeds the indebtedness secured hereby, and any receiver appointed may serve without bond. Employment by Beneficiary shall not disqualify a person from serving as a receiver. The exercise of any right under this Section 3.2(a) shall not be deemed an election of remedies nor a "pending action" so as to preclude the exercise of any other right or remedy.

The amounts borrowed from or advanced by Beneficiary shall bear interest at the Advance Rate from the date of expenditure until repaid, and such amounts and interest shall be an indebtedness of Grantor secured hereby.

(c) Uniform Commercial Code. Beneficiary shall have all of the remedies of a secured party under the Uniform Commercial Code as adopted in the State of Oregon

and any other applicable law. To the extent permitted by law, Grantor expressly waives any notice of sale or other disposition and notice of the exercise of any other right or remedy of Beneficiary arising by reason of an Event of Default hereunder, and to the extent any such notice is required and cannot be waived, Grantor agrees, for the purpose of this paragraph only, that if such notice is mailed, postage prepaid, to the Grantor at the above address at least five (5) days before the time of the sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving of said notice.

(d) Sale. The Trustee may, and upon the written request of Beneficiary, shall, and the Beneficiary may to the extent permitted by law, with or without entry, personally or by its agents or attorneys as far as applicable:

(i) Sell the Premises and otherwise exercise the power of sale granted herein as a nonjudicial foreclosure of this Deed of Trust in the manner provided by applicable laws pertaining to the foreclosure of deeds of trust;

(ii) Institute proceedings for the complete or partial judicial foreclosure of this Deed of Trust as a mortgage in the manner provided by applicable law; and/or

(iii) Apply to any court of competent jurisdiction for the appointment of a receiver for the Premises to operate the same and collect all the earnings, revenues, issues, profits and income therefrom.

(e) Proceeds. In the event of any judicial or nonjudicial foreclosure sale made under or by virtue of Section 3.2(d), the entire outstanding principal of and interest on the Note, if not previously due and payable, and all other sums secured hereby, immediately thereupon shall become due and payable. The proceeds of any sale made under or by virtue of this Section 3.2(e), together with any other sums which then may be held by the Trustee or Beneficiary under this Deed of Trust shall be applied in the manner provided by law. Upon any judicial or nonjudicial sale made under or by virtue of this Section 3.2(e), the Beneficiary may bid for and acquire the Premises or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the indebtedness of the Grantor secured by this Deed of Trust the net sales price after deducting therefrom the expenses of the sale and the cost of the action and any other sums which the Beneficiary is authorized to deduct under this Deed of Trust.

(f) Tenancy at Will. In the event Grantor remains in possession of the Premises after the same have been sold as provided herein or after Beneficiary otherwise becomes entitled to possession of the same, Grantor shall become a tenant at will of Beneficiary or the purchaser of the Real Property and shall pay, while in possession, a reasonable rental for use of the Real Property and Improvements.

(g) Remedies Not Exclusive. No remedy granted herein is intended to be exclusive of any other remedy provided herein or at law or in equity, but each shall be cumulative. Each such remedy may be exercised singly, collectively or seriatim, and as often as may be deemed expedient by Trustee or Beneficiary. If there exists additional security for the performance of the obligations secured hereby, Beneficiary, at its sole option and without limiting or affecting any rights or remedies hereunder, may exercise any of the rights and remedies to which

it may be entitled hereunder either concurrently with whatever other rights it may have in connection with such other security or in such order as it may determine.

4. MISCELLANEOUS TERMS AND CONDITIONS.

4.1 **Acceptance of Trust; Notice.** The Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is recorded. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party unless Trustee brings such action.

4.2 **Powers of Trustee.** Trustee or Beneficiary may from time to time apply in any court of competent jurisdiction for aid and direction in the execution of the trusts hereunder and the enforcement of the rights and remedies available hereunder, and Trustee or Beneficiary may obtain orders or decrees directing or confirming acts in the execution of said trusts. Grantor shall pay to Trustee reasonable compensation and reimbursement for services and expenses in the administration of the trusts created hereunder, including reasonable attorney fees, but in no event more than allowed by any applicable statute. Grantor agrees to and does indemnify Trustee and Beneficiary against all losses, claims, demands and liabilities which either may incur, suffer or sustain in the execution of the trusts created hereunder or in the performance of any act required or permitted hereunder or by law.

4.3 **Substitution of Trustee.** By a writing signed and acknowledged by Beneficiary and filed for record in the office of the recorder of the county in which the Real Property is situated, Beneficiary from time to time may appoint another trustee to act in the place and stead of Trustee or any successor.

4.4 **Leases.** In the event Beneficiary shall institute judicial proceedings to foreclose the lien hereof, and shall be appointed as a mortgagee in possession of the Premises, Beneficiary, during such time as it shall be mortgagee in possession, shall have, and Grantor hereby gives and grants to Beneficiary, the right, power and authority to make and enter into leases of the Premises or any portion thereof for such rents and for such periods of occupancy and upon such conditions and provisions as such mortgagee in possession may deem desirable, and Grantor expressly acknowledges and agrees that the term of any such lease may extend beyond the date of any sale of the Premises hereunder, it being the intention of Grantor that, while Beneficiary is a mortgagee in possession of the Premises, Beneficiary shall be deemed to be and shall be the attorney-in-fact of Grantor for the purpose of making and entering into leases of parts or portions of the Premises for the rents and upon the terms, conditions and provisions deemed desirable by Beneficiary. The power and authority hereby given and granted by Grantor to Beneficiary shall be deemed to be coupled with an interest and shall not be revocable by Grantor.

4.5 **Marshaling of Assets.** Grantor hereby expressly waives all rights to require a marshaling of assets by the Trustee or Beneficiary or to require Trustee or Beneficiary to first resort to the sale of any portion of the Premises which might have been retained by Grantor before foreclosing upon and selling any other portion thereof.

4.6 **Nonwaiver.** By accepting payment of any sum secured hereby after its due date or late performance of any obligation secured hereby, Beneficiary shall not waive its right

against any person obligated directly or indirectly hereunder or on any indebtedness hereby secured either to require prompt payment or performance when due of all other sums and obligations so secured or to declare a default for failure to make such payment. No exercise of any right or remedy by Trustee or Beneficiary hereunder shall constitute a waiver of any other right or remedy allowed herein, in any other document evidencing or securing any Secured Obligation, or at law or in equity. No delay or omission of the Trustee or Beneficiary in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein.

4.7 Rules of Construction. When the identity of the parties or the context of a provision makes it appropriate, the neuter gender shall include the feminine and masculine, and the singular shall include the plural. The headings of each section are for information and convenience only and shall not limit or affect the contents of any provisions hereof.

4.8 Severability. If any term of this Deed of Trust or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Deed of Trust shall not be affected thereby, and each term of this Deed of Trust shall be valid and enforceable to the fullest extent permitted by law.

4.9 Successors in Interest; Joint and Several Liability. Subject to the limitations set forth in Section 2.9, this Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, executors, administrators, successors and assigns. If Grantor is comprised of more than one person or entity, then all obligations of Grantor hereunder are joint and several and each party comprising Grantor agrees and promises to pay the Secured Obligations. The term “Beneficiary” shall mean the holder and owner of the Note secured hereby, whether or not named as Beneficiary herein.

4.10 Notices. All notices to be given pursuant to this Deed of Trust shall be in writing and shall be sufficient if personally delivered or deposited in the United States Mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the party to whom directed at its address shown above. Notices (as distinguished from payments) will be deemed received when personally delivered or two (2) days after deposit in the United States Mail. Any party may change its address set forth herein by giving ten (10) days prior written notice thereof to all other parties.

4.11 Modifications. This Deed of Trust may not be amended, modified or changed except by a written instrument signed by the parties hereto.

4.12 Attorney Fees. If any litigation or arbitration is instituted to enforce or interpret any provision hereof, or to foreclose this Deed of Trust, the prevailing party shall be entitled to collect, in addition to all other amounts and relief, its court costs, title search costs, and other reasonable attorney fees, incurred both at and in preparation for trial and any appeal or review, such amount to be set by the court before which the matter is heard. Without limitation on and in addition to the foregoing, Grantor agrees to reimburse Beneficiary for all such costs and fees which Beneficiary may incur in connection with any bankruptcy or similar proceeding wherein the Grantor, or any guarantor, surety or accommodation party is the “debtor,” including

(without limitation) issues peculiar to Federal bankruptcy law. If Beneficiary is the prevailing party, such costs and attorney fees shall be secured by this Deed of Trust.

4.13 Priority of Trust Deed. The terms of the obligation secured hereby may provide that the interest rate, payment terms or balance due may be indexed, adjusted or renewed. The priority of this Deed of Trust shall not be affected by renegotiation or adjustment of the interest rate provided in the Note (which may increase or decrease the amount of periodic payments or extend or shorten the term of this Deed of Trust), any increase in the underlying obligation as a result of deferment of all or a portion of interest payments and the addition of such payments to the outstanding balance of the obligation, or the execution of new agreements which reflect such changes.

4.14 Commercial Trust Deed. This Deed of Trust is a commercial trust deed and is not a residential trust deed, as the phrase “residential trust deed” is defined in ORS 86.705, and the provisions of ORS 86.705 through 86.815 applicable to the foreclosure of commercial trust deeds shall apply to this Deed of Trust at the option of Beneficiary. Grantor warrants that the loan secured hereby is for commercial purposes and is not for residential, household, personal or consumer purposes.

4.15 Mutual Negotiation. Beneficiary and Grantor confirm that they have mutually negotiated this Deed of Trust and that none of the terms or provisions of this Deed of Trust shall be presumptively construed against either party.

4.16 Report of Real Estate Transaction. Grantor has made or provided for making, or will make or provide for making, on a timely basis, any reports or returns required under Section 6045(e) of the Internal Revenue Code of 1986 as amended (the “Code”) (and any similar reports or returns required by state or local law) relating to the Premises, notwithstanding the fact that the primary reporting responsibility may fall on Beneficiary, counsel for Beneficiary, or another party. Grantor’s obligations under this paragraph will be deemed to be satisfied if proper and timely reports and returns required under this paragraph are filed by a title company or real estate broker involved in the real estate transaction relating to the Premises, but nothing contained herein shall be construed to require such returns or reports to be filed by Beneficiary or counsel for Beneficiary.

4.17 Assignment by Beneficiary. Beneficiary may assign this Deed of Trust in whole or in part to any person and may grant participation in any of its rights under this Deed of Trust, without notice and without affecting Grantor’s liability under this Deed of Trust. In connection with any proposed assignment, participation or similar arrangement, Beneficiary may make available to any person all credit and financial data furnished or to be furnished to Beneficiary by Grantor or any guarantor of the Note. Grantor agrees to provide to the person designated by Beneficiary any information as such person may reasonably require to form a decision regarding the proposed assignment, participation or other arrangement.

[Signature and acknowledgement on the following page.]

Executed as of the date first above written.

GRANTOR:

Arcadia Holdings, LLC,
an Oregon limited liability company

By: _____

Name: _____

Title: _____

STATE OF _____)
)
County of _____) ss.

This instrument was acknowledged before me this _____ day of August , 2025, by _____, the _____ of **Arcadia Holdings, LLC**, an Oregon limited liability company, on behalf of the company.

•

NOTARY PUBLIC FOR _____
My Commission Expires: _____

Exhibits:

A – Legal Description

Exhibit A
Legal Description

[See Attachment]