

2021-015968

Klamath County, Oregon



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10/22/2021 12:12:09 PM

Fee: \$102.00

AFTER RECORDING MAIL TO:

Inland Capital Fund, LLC  
P.O. Box 48084  
Spokane, WA 99228

Grantor(s): Burton Properties NW, LLC  
Grantee(s): Inland Capital Fund, LLC  
Assessor's tax parcel no(s): 881551  
FA21-1007BP

### DEED OF TRUST

THIS DEED OF TRUST, made this October 7, 2021, between Burton Properties NW, LLC, a Washington Limited Liability Company, GRANTOR(S), whose street address is 3287 S 10<sup>th</sup> Way, Ridgefield, WA 98642, Brad L. Williams, an Oregon Attorney, TRUSTEE, whose street address is 12410 E Mirabeau Parkway, Suite 100 Spokane Valley, WA 99216, and Inland Capital Fund, LLC, a Washington limited liability company, BENEFICIARY, whose street address is P.O. Box 48084, Spokane WA 99228.

WITNESSETH: Grantor(s) hereby bargain(s), sell(s), and convey(s) to Trustee in trust, with power of sale, the following described real property in Klamath County, Oregon (the "Property"):

LOT 119 OF TRACT 1318-GILCHRIST TOWNSITE, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON.

Commonly known as: 138707 Rhododendron St, Gilchrist, OR 97737.

which Property is not used principally for agricultural purposes, together with all the tenements, hereditaments, and appurtenances now or hereafter belonging or in any way appertaining, and together with the following, (all of which shall be deemed included in the "Property") :

- (a) All land lying in streets and roads adjoining the Property, and all access rights and easements pertaining to the Property.
- (b) All the lands, tenements, privileges, reversions, remainders, irrigation and water rights and stock, oil and gas rights, royalties, minerals and mineral rights, hereditaments and appurtenances belonging or in any way pertaining to the Property.
- (c) All buildings, structures, improvements, fixtures and property now or hereafter attached to or used in the operation of the Property
- (d) All rents, issues and profits of the Property, all existing and future leases of the Property (including extensions, renewals and subleases), all agreements for use and occupancy of the Property (all such leases and agreements whether written or oral, are hereafter referred to as the "Leases"), and all guaranties of lessees' performance under

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the Leases, together with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues, profits and other income of any nature now or hereafter due (including any income of any nature coming due during any redemption period) under the Leases or from or arising out of the Property including minimum rents, additional rents, percentage rents, parking or common area maintenance contributions, tax and insurance contributions, deficiency rents, liquidated damages following default in any Lease, all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Property, all proceeds payable as a result of a lessee's exercise of an option to purchase the Property, all proceeds derived from the termination or rejection of any Lease in a bankruptcy or other insolvency proceeding, and all proceeds from any right and claims of any kind which Grantor may have against any lessee under the Leases or any occupants of the Property (all of the above are hereafter collectively referred to as the "Rents"). This subsection is subject to the right, power and authority given to the Beneficiary in the Loan Documents (as defined herein) to collect and apply the Rents.

(e) All compensation, awards, damages, rights of action and proceeds (including insurance proceeds and any interest on any of the foregoing) arising out of or relating to a taking or damaging of the Property by reason of any public or private improvement, condemnation proceeding (including change of grade), fire, earthquake or other casualty, injury or decrease in the value of the Property; all returned premiums or other payments on any insurance policies pertaining to the Property and any refunds or rebates of taxes or assessments on the Property.

(f) All permits, permit applications, plans, specifications, contracts, agreements and purchase orders pertaining or incidental to the design, construction, maintenance or management of any improvements on the Property, Grantor's rights under any payment, performance, or other bond in connection with construction of improvements on the Property, and all construction materials, supplies, and equipment delivered to the Property or intended to be used in connection with the construction of improvements on the Property wherever actually located.

**THIS DEED IS FOR THE PURPOSE OF SECURING the following:**

(a) Payment of the sum of **One Hundred Three Thousand Five Hundred and 00/100 Dollars (\$103,500.00)**, with interest thereon, according to the terms of a promissory note of even date herewith, payable to Beneficiary or order and made by Grantor (the "Note," which term shall include all renewals, modifications or extensions thereof evidencing the indebtedness secured by this Deed of Trust)

(b) Payment of any further sums advanced or loaned by Beneficiary to Grantor, or any of its successors or assigns, if (1) the Note or other writing evidencing the future advance or loan specifically states that it is secured by this Deed of Trust or (2) the advance, including costs and expenses incurred by Beneficiary, is made pursuant to this Deed of Trust or any other documents executed by Grantor evidencing, securing or relating to the Note and/or the Collateral, whether executed prior to, contemporaneously with or subsequent to this Deed of Trust (this Deed of Trust, the Note and such other documents, including any construction or other loan agreement, are hereafter collectively referred to as the "Loan Documents") together with interest thereon at the rate set forth in the Note unless otherwise specified in the Loan Documents or agreed to in writing; and

(c) Performance of each agreement, term and condition set forth or incorporated by reference in the Loan Documents unless performance of such agreement, term or condition is specifically provided to not be secured by this Deed of Trust.

Notwithstanding the foregoing and the covenants hereafter set forth, it is expressly agreed and acknowledged that none of the covenants, representations, or other obligations of Grantor set forth in this Deed of Trust are intended by Grantor and Beneficiary to secure or be the substantial equivalent of obligations of Grantor arising under any the Hazardous Substance Indemnity or other environmental indemnity agreement or provision, including without limitation any agreement or provision pertaining to hazardous or toxic wastes or substances, and any reference

hereafter to the Loan Documents shall not include any such environmental indemnity agreement or provision included therein.

**COVENANTS:** Grantor(s) covenant(s) and agree(s) as follows:

1. To keep the Property in good condition and repair; to permit no waste of the Property; to complete any building, structure, or improvement being built or about to be built on the Property; to restore promptly any building, structure, or improvement on the Property which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the Property.
2. To pay before delinquent all lawful taxes and assessments upon the Property; to keep the Property free and clear of all other charges, liens, or encumbrances impairing the security of this Deed of Trust;
3. To keep all buildings now or hereafter erected on the Property continuously insured against loss by fire or other hazards in an amount not less than the total debt secured by this Deed of Trust. All policies shall be held by the Beneficiary, and be in such companies as the Beneficiary may approve and have loss payable first to the Beneficiary, as its interest may appear, and then to the Grantor(s). The amount collected under any insurance policy may be applied upon any indebtedness secured by this Deed of Trust in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor(s) in insurance policies then in force shall pass to the purchaser at the foreclosure sale.
4. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorney's fees in a reasonable amount, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.
5. To pay all costs, fees, and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligation secured by this Deed of Trust and Trustee's and attorney's fees actually incurred, as provided by statute.
6. That, in the event Grantor(s) fails to pay when due any taxes, assessments, insurance premiums, liens, encumbrances, or other charges against the Property, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the note secured by this Deed of Trust, shall be added to and become a part of the debt secured in this Deed of Trust.
7. The Property may not be sold (by conveyance, contract to sell or otherwise), assigned, transferred or encumbered without the Beneficiary's consent; upon breach of this provision, in addition to any other remedies provided in the Note or Loan Documents, Beneficiary may declare all sums due under the Note and this Deed of Trust immediately due and payable, unless prohibited by applicable law.
8. In the event any portion of the Property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligation secured by this Deed of Trust shall be paid to Beneficiary to be applied to said obligation.
9. By accepting payment of any sum secured by this Deed of Trust after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.
10. The Trustee shall reconvey all or any part of the Property covered by this Deed of Trust to the person entitled thereto, on written request of the Grantor(s) and the Beneficiary, or upon satisfaction of the obligation secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.

11. Upon default by Grantor(s) in the payment of any indebtedness secured by this Deed of Trust or in the performance of any agreement contained in this Deed of Trust, all sums secured by this Deed of Trust shall immediately become due and payable at the option of the Beneficiary. In such event and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Deed of Trust Act of the State of Washington.

12. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser all right, title and interest in the real and personal property which Grantor(s) had or had the power to convey at the time of the execution of this Deed of Trust, and such as Grantor(s) may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchaser and encumbrancers for value.

13. The power of sale conferred by this Deed of Trust and by the Deed of Trust Act of the State of Washington is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.

14. In the event of the absence, death, incapacity, disability, or resignation of Trustee, or at the discretion of the Beneficiary, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of an action or proceeding in which Grantor(s), Trustee, or Beneficiary shall be a party.

15. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on his/her/their heirs, devisees, legatees, administrators, executors, and assigns. The term Beneficiary shall mean the holder and owner of the note secured hereby, whether or not named as Beneficiary herein.

16. This Deed of Trust shall be deemed a security agreement, as defined in the Uniform Commercial Code as adopted and amended by the State of Washington. The remedies for any violation of the covenants, terms and conditions of the agreements contained herein shall be as prescribed (i) herein, or (ii) by general law, or (iii) by the specific statutory consequences now or hereafter enacted, and specified in the Uniform Commercial Code as enacted by the State of Washington, all at Beneficiary's sole election. Grantor and Beneficiary agree that the filing of any financing statement in the records normally having to do with personal property shall not be construed as impairing the hereby stated intention of the parties that everything used in connection with the construction, management, maintenance and production of income from the Property together with all other rights and property described herein and comprising the secured property shall at all times and for all purposes in all proceedings, both legal and equitable, be regarded as part of the Property, whether physically attached or specifically identified or not.

17. As further security for the payment of all indebtedness and performance of all obligations secured hereby, Grantor irrevocably and absolutely assigns to Beneficiary, the rents, issues, profits and proceeds of contracts of the Property, together with all future leases, profits and contracts, and any and all extensions, renewals and replacements hereof. However, as long as no default shall exist in any obligation secured hereby, Grantor may collect assigned rents and profits as the same shall fall due. All rents or profits receivable from or in respect to the Property which Grantor shall be permitted to collect hereunder shall be received by it in trust to pay the usual and reasonable operating expenses of, and the taxes upon, the Property and the payment of all sums secured hereby. Upon the occurrence of any default in payment of any indebtedness or performance of any obligation secured hereby, all rights of the Grantor to collect and receive rents and profits shall wholly and immediately terminate without notice, and Beneficiary shall thereafter have the absolute right to all such rents and profits. In addition to, and not in limitation of the foregoing, Beneficiary shall have the right to petition the Court of appropriate jurisdiction for the appointment of a Receiver of the rents, issues and profits of the Property and shall have in

addition to the rights and powers customarily given to and exercised by such receiver, the right to enter upon and take possession of the Property and manage the same with all rights and options in regard thereto available to Grantor. Grantor expressly waives the posting of bond by such receiver, and waives any challenge to a proposed receiver based on affiliation with Beneficiary.

18. Borrower absolutely and unconditionally assigns and transfers to Lender all the rents and revenues "Rents" of the Property, regardless of to whom the Rents of the Property are payable. Borrower authorizes Lender or Lender's Agents to collect the Rents, and agrees that each Tenant of the Property shall pay the Rents to Lender or Lender's Agents. However, Borrower shall receive the Rents until (i) Lender has given Borrower notice of default; and (ii) Lender has given notice to the Tenant(s) that the rents are to be paid to Lender or Lender's Agent. This Assignment of Rents constitutes an absolute assignment and not an assignment for additional security only.

If Lender gives notices of breach to Borrower: (i) all Rents received by Borrower shall be held by Borrower as Trustee for the benefit of Lender only to be applied to the sums secured by the This Deed of Trust; (ii) Lender shall be entitled to collect and receive all of the Rents of the Property; (iii) Borrower agrees that each Tenant of the Property shall pay all Rents due and unpaid to Lender or Lender's Agents upon Lender's written demand to the Tenant; (iv) unless applicable law provides otherwise, all Rents collected by Lender or Lender's Agents shall be applied first to the costs of taking control of and managing the Property and collecting the Rents, including, but not limited to, attorney's fees, Receiver's fees, premiums on Receiver's bonds, repair and maintenance costs, insurance premiums, taxes, assessments and other charges on the Property, and then to the sums secured by the This Deed of Trust; (v) Lender, Lender's Agents or any judicially appointed Receiver shall be liable to account for only those Rents actually received; and (vi) Lender shall be entitled to have a Receiver appointed to take possession of and manage the Property and collect the Rents and profits derived from the Property without any showing as to the inadequacy of the Property as security.

**GRANTOR:**

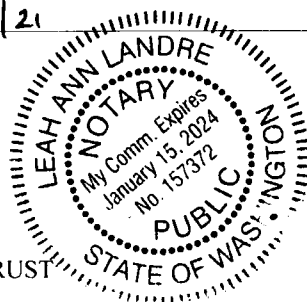
Joey 7 Burton

Joey Burton, managing member of Burton Properties NW, LLC, a Washington Limited Liability Company  
[print name, title and business name]

STATE OF Washington )  
COUNTY OF Clark )-ss

I certify that I know or have satisfactory evidence that Joey Burton (is/are) the person(s) who appeared before me, and said person(s) acknowledged that (he/she/they) signed this instrument, on oath stated that (he/she/they) (is/are) authorized to execute the instrument and acknowledged it as the managing member of Burton Properties NW, LLC to be the free and voluntary act of such party(ies) for the uses and purposes mentioned in this instrument.

Dated: 10/8/21



Leah Ann Landre  
Notary Public in and for the state of Washington  
Residing at Clark County  
My appointment expires: 1/15/24

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