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Recording requested by and
when recorded return to:
Sara A. Magovern, Esq.
Milbank, Tweed, Hadley & McCloy
1 Chase Manhattan Plaza
New York, New York 10005

ISLAND TITLE COMPANY
SB-8558 ✓

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

by

FIRST HORIZON GROUP LIMITED PARTNERSHIP

(as Grantor)

to

CHICAGO TITLE INSURANCE COMPANY

(as Deed of Trust Trustee)

for the benefit of

NOMURA ASSET CAPITAL CORPORATION

(as Beneficiary)

Dated as of: February 27, 1996

Property: Pacific Edge Outlet Center
Burlington, Washington

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

KNOW ALL PERSONS BY THESE PRESENTS:

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Deed of Trust") is made as of the 27th day of February, 1996 by FIRST HORIZON GROUP LIMITED PARTNERSHIP, a Delaware limited partnership having its principal office at 5000 Hakes Drive, Muskegon, Michigan 49441 (the "Grantor"), in favor of Chicago Title Insurance Company, a Missouri corporation, as trustee, having its principal office at 701 5th Avenue, Suite 1800, Seattle, Washington 98101 (together with any successor trustee appointed hereunder, the "Deed of Trust Trustee"), for the benefit of NOMURA ASSET CAPITAL CORPORATION, a Delaware corporation having its principal office at 2 World Financial Center, Building B, New York, New York 10281-1198 (the "Beneficiary").

W I T N E S S E T H:

WHEREAS, the Grantor and the Beneficiary are parties to a Loan Agreement dated as of the date hereof (said Loan Agreement, as modified and supplemented and in effect from time to time, the "Loan Agreement"), which Loan Agreement provides for a loan to be made by the Beneficiary to the Grantor (the "Loan") which Loan is evidenced by, and repayable with interest thereon in accordance with, a promissory note dated of even date herewith, executed and delivered by the Grantor to the order of the Beneficiary in the original principal amount of \$65,000,000 (as modified, supplemented and/or consolidated and in effect from time to time, the "Note"); and

WHEREAS, it is a condition to the obligation of the Beneficiary to extend credit to the Grantor pursuant to the Loan Agreement that the Grantor execute and deliver this Deed of Trust;

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NOW, THEREFORE, in consideration of the making of the Loan by the Beneficiary to the Grantor and for the purpose of securing the following (collectively, the "Loan Obligations"):

(a) all principal and interest owing from time to time under the Note, and all obligations, expenses and charges owing by the Grantor under the Loan Documents and modifications, extensions, substitutions, exchanges and renewals of the Loan Documents or the Note (each of which modification, extension, substitution, exchange and renewal shall enjoy the same priority as the initial advances evidenced by the Note) and all amounts from time to time owing by the Grantor under this Deed of Trust or any other Loan Documents; and

(b) all covenants, agreements and other obligations from time to time owing to, or for the benefit of, the Beneficiary pursuant to the Loan Documents, including, without limitation, any and all sums expended by the Beneficiary pursuant to Section 2.11, together with interest thereon,

the Grantor hereby irrevocably grants, bargains, sells, releases, conveys, warrants, assigns, transfers, mortgages, pledges, sets over and confirms unto the Deed of Trust Trustee, IN TRUST WITH POWER OF SALE for the benefit and security of the Beneficiary, its successors and assigns, all of the Grantor's right, title and interest in and to the following described land, real estate, buildings, improvements, equipment, fixtures, furniture, and other personal property (which together with any additional such property hereafter acquired by the Grantor and subject to the lien of this Deed of Trust, or intended to be so, as the same may be from time to time constituted, the "Mortgaged Estate") to-wit:

(a) All the land located in Skagit County, Washington, as more particularly described in Exhibit A attached hereto, subject, however, to the Permitted Encumbrances (the "Land");

(b) All Improvements and Equipment, to the extent same shall be deemed to be fixtures and accessions to the Land and a part of the Land as between the parties hereto and all Persons claiming by, through or under them (the Land, Improvements and such Equipment collectively, the "Facility");

(c) All Equipment other than that deemed to be fixtures;

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- (d) All Appurtenant Rights;
- (e) All Rents;
- (f) All Accounts, General Intangibles (to the full extent assignable), Instruments, Inventory, Money and (to the full extent assignable) Permits; and
- (g) All Proceeds.

AND, as additional security, the Grantor hereby grants to the Beneficiary a security interest in the Accounts, the Equipment, the General Intangibles, the Instruments, the Inventory, the Leases, the Money, the Permits, the Rents and all Proceeds, and in any property owned by the Grantor and included in the Mortgaged Estate as to which a security interest can be created or perfected under the applicable Uniform Commercial Code, now existing or hereafter coming into existence, and all replacements, renewals and additions to the foregoing (collectively, the "Security Interest Property"), and this Deed of Trust shall be effective as a security agreement pursuant to any applicable Uniform Commercial Code.

TO HAVE AND TO HOLD the Mortgaged Estate and all parts thereof unto the Deed of Trust Trustee and its successors in trust and the Deed of Trustee's assigns forever, subject however to the terms and conditions herein;

PROVIDED, HOWEVER, that these presents are upon the condition that, if the Grantor shall (i) pay or cause to be paid to the Beneficiary the principal and interest payable with respect to the Note, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by the Grantor, and keep, perform, and observe all and singular the covenants and promises in each of the Loan Documents expressed to be kept, performed, and observed by and on the part of the Grantor, all without fraud or delay, (ii) comply with the provisions of Section 2.7(a) and Section 2.11 of the Loan Agreement or (iii) defease the Loan in full of the Loan in accordance with Section 8.30 of the Loan Agreement, then this Deed of Trust, and all the properties, interests, and rights hereby granted, bargained, and sold shall cease, terminate and be void.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, THE GRANTOR HEREBY COVENANTS AND AGREES AS FOLLOWS:

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ARTICLE I

Definitions

Section 1.01. Certain Defined Terms. For all purposes of this Deed of Trust all capitalized terms shall have the meaning ascribed thereto in the Loan Agreement unless defined herein, and:

"Accounts" means any of the Grantor's rights to payment for goods sold or leased or for services rendered arising from the operation of the Facility and not evidenced by an Instrument, including, without limitation, all accounts and accounts receivable arising from the operation of the Facility, now existing or hereafter coming into existence, and all Proceeds thereof received from the sale, exchange, transfer, collection or other disposition or substitution thereof. In addition to the foregoing, the term "Accounts" shall include the meaning such term has in the Uniform Commercial Code.

"Appurtenant Rights" means all of the Grantor's rights, now or hereafter acquired, in all easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights, air rights, development rights and powers, all minerals, flowers, shrubs, crops, trees, timber and other emblements now or hereafter appurtenant to, or used in connection with, or located on, under or above the Land and the Improvements or any part or parcel thereof, and all ground leases, estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances, reversions, and remainders whatsoever, in any way belonging, relating or appertaining to the Land and the Improvements or any part thereof.

"Beneficiary" has the meaning provided in the heading of this Deed of Trust.

"Condemnation Proceeds" has the meaning provided in Section 2.12(b).

"Deed of Trust" has the meaning provided in the heading of this Deed of Trust.

"Deed of Trust Trustee" has the meaning provided in the heading of this Deed of Trust.

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"Default" means the occurrence of any event which, but for the giving of notice or the passage of time, or both, would be an Event of Default.

"Default Collateral" has the meaning provided in Section 7.14.

"Environmental Claim" means any written request for information by a Governmental Authority, or any written notice, notification, claim, administrative, regulatory or judicial action, suit, judgment, demand or other written communication by any Person or Governmental Authority alleging or asserting liability with respect to the Grantor or the Facility, whether for damages, contribution, indemnification, cost recovery, compensation, injunctive relief, investigatory, response, remedial or cleanup costs, damages to natural resources, personal injuries, fines or penalties arising out of, based on or resulting from (i) the presence, Use or Release into the environment of any Hazardous Substance originating at or from, or otherwise affecting, the Facility, (ii) any fact, circumstance, condition or occurrence forming the basis of any violation, or alleged violation, of any Environmental Law by the Grantor or otherwise affecting the Facility or (iii) any alleged injury or threat of injury to health, safety or the environment by the Grantor or otherwise affecting the Facility.

"Environmental Laws" means any and all applicable federal, state, local and foreign laws, rules or regulations, any judicial or administrative orders, decrees or judgments thereunder, and any permits, approvals, licenses, registrations, filings and authorizations, in each case as in effect as of the date hereof and as amended from time to time, relating to the protection of human health or the environment, or the Release or threatened Release of Hazardous Substances into the indoor or outdoor environment, including, without limitation, ambient air, soil, surface water, ground water, wetlands, land or subsurface strata or otherwise relating to the Use of Hazardous Substances.

"Equipment" means all fixtures, appliances, machinery, furniture, furnishings, decorations, tools and supplies now owned or hereafter acquired by the Grantor and located upon the Land or the Improvements and used in connection with the present or future operation and occupancy of the Land and the Improvements, including, but not limited to, all beds, linen, radios, televisions, carpeting, telephones, cash registers, computers, lamps, glassware, hotel, restaurant and kitchen equipment, any building equipment, including, but not limited to, all heating, lighting, incinerating, waste removal and power equipment,

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engines, pipes, tanks, motors, conduits, switchboards, security and alarm systems, plumbing, lifting, cleaning, fire prevention, fire extinguishing, refrigeration, ventilating and communications apparatus, air cooling and air conditioning apparatus, escalators, elevators, ducts and compressors, materials and supplies, and all other machinery, apparatus, equipment, fixtures and fittings now owned or hereafter acquired by the Grantor, any portion thereof or any appurtenances thereto, together with all additions, replacements, parts, fittings, accessions, attachments, accessories, modifications and alterations of any of the foregoing, located upon the Land or the Improvements and used in connection with the present or future operation and occupancy of the Land and the Improvements, provided, however, that, with respect to any items which are leased and not owned by the Grantor, the Equipment shall include the leasehold interest only of the Grantor, together with any options to purchase any of said items and any additional or greater rights with respect to such items which the Grantor may hereafter acquire.

"Event of Default" has the meaning provided in Section 5.01.

"Facility" has the meaning provided in the recitals to this Deed of Trust.

"General Intangibles" means all intangible personal property of the Grantor arising out of or directly relating to the Facility (other than Accounts, Rents, Instruments, Inventory, Money and Permits), including, without limitation, things in action, settlements, judgments, contract rights, rights to performance (including, without limitation, rights under warranties), refunds of real estate taxes and assessments and other rights to payment of Money, copyrights, trademarks and patents now existing or hereafter in existence. In addition to the foregoing, the term "General Intangibles" shall include the meaning such term has in the Uniform Commercial Code.

"Grantor" has the meaning provided in the heading of this Deed of Trust.

"Hazardous Substance" means, collectively, (a) any petroleum or petroleum products or waste oils, explosives, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, lead in drinking water, and lead-based paint the presence, generation, use, transportation, storage or disposal of which (i) is regulated or could lead to liability under any Environmental Law or (ii) is subject to notice or reporting requirements under any

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Environmental Law, (b) any chemicals or other materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "contaminants," "pollutants" or words of similar import under any Environmental Law and (c) any other chemical or any other material or substance, exposure to which is now or hereafter prohibited, limited or regulated under any Environmental Law.

"Impositions" means all taxes (including, without limitation, all ad valorem, sales (including those imposed on lease rentals), use, single business, gross receipts, value added, intangible transaction privilege, privilege or license or similar taxes), assessments (including, without limitation, to the extent not discharged prior to the date hereof, all assessments for public improvements or benefits, whether or not commenced or completed within the term of this Deed of Trust), ground rents, water, sewer or other rents and charges, excises, levies, fees (including, without limitation, license, permit, inspection, authorization and similar fees), and all other governmental charges, in each case whether general or special, ordinary or extraordinary, foreseen or unforeseen, of every character in respect of the Mortgaged Estate, any Rents and Accounts related thereto (including all interest and penalties thereon), which at any time prior to, during or in respect of the term hereof may be assessed or imposed on or in respect of or be a lien upon (a) the Grantor (including, without limitation, all income, franchise, single business or other taxes imposed on the Grantor for the privilege of doing business in the jurisdiction in which the Mortgaged Estate, or any other collateral delivered or pledged to the Beneficiary in connection with the Loan, is located) or the Beneficiary, (b) the Mortgaged Estate, or any other collateral delivered or pledged to the Beneficiary in connection with the Loan, or any part thereof or any Rents therefrom or any estate, right, title or interest therein, or (c) any occupancy, operation, use or possession of, or sales from, or activity conducted on, or in connection with the Mortgaged Estate or the leasing or use of the Mortgaged Estate or any part thereof, or the acquisition or financing of the acquisition of the Mortgaged Estate by the Grantor. Nothing contained in this Deed of Trust shall be construed to require the Grantor to pay any tax, assessment, levy or charge imposed on the Beneficiary, Servicer or any Certificateholder in the nature of a franchise, capital levy, estate, inheritance, succession, income or net revenue tax.

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"Improvements" means all improvements owned by the Grantor and now or hereafter situated, placed or constructed upon the Land, including all buildings, structures and improvements of every nature whatsoever now or hereafter situated, placed or constructed upon the Land, including, but not limited to, any and all shopping centers, power plants, garages, warehouses, utility sheds, workrooms, sidewalks, parking areas, drives, retaining walls, fences, gates, grating, terracing and other improvements and appurtenances thereto, and any and all additions, alterations and betterments now or hereafter situated, placed or constructed upon the Land or any part thereof, and to the extent of the Grantor's interest therein, all gas and electric fixtures, radiators, heaters, engines and machinery, boilers, ranges, elevators and motors, plumbing and heating fixtures, carpeting and other floor coverings, water heaters, awnings and storm sashes, and cleaning apparatus which are or shall be attached to the Land or said buildings, structures or improvements.

"Instruments" means all instruments, chattel paper, documents or other writing obtained by the Grantor from or in connection with the operation of the Facility evidencing a right to the payment of Money, including, without limitation, all notes, drafts, acceptances, documents of title, and policies and certificates of insurance, including, but not limited to, liability, hazard, rental and credit insurance, guarantees and securities, now or hereafter received by the Grantor or in which the Grantor has or acquires an interest pertaining to the foregoing. In addition to the foregoing, "Instruments" shall include the meaning such term has in the Uniform Commercial Code.

"Insurance Proceeds" has the meaning provided in Section 2.05(d).

"Inventory" means all goods now owned or hereafter acquired by the Grantor intended for sale or lease, or to be furnished under contracts of service by the Grantor in connection with the Facility, including, without limitation, all inventories of food, beverages and other comestibles held by the Grantor for sale or use at or from the Facility, and all other such goods, wares, merchandise and materials and supplies of every nature held by the Grantor for sale to or for consumption by tenants or guests of the Facility and others, and all such other goods returned to or repossessed by the Grantor. In addition to the foregoing, the term "Inventory" shall include the meaning such term has in the Uniform Commercial Code.

"Land" has the meaning provided in the recitals to this Deed of Trust.

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"Leases" means all leases and other agreements or arrangements with or assumed by the Grantor as landlord affecting the use or occupancy of all or any portion of the Facility now in effect or hereafter entered into (including, without limitation, lettings, subleases, licenses, concessions, tenancies and other occupancy agreements with or assumed by the Grantor as landlord covering or encumbering all or any portion of the Facility), together with any guarantees, supplements, amendments, modifications, extensions and renewals of the same, and all additional remainders, reversions and other rights and estates appurtenant thereto.

"Loan" has the meaning provided in the recitals to this Deed of Trust.

"Loan Agreement" has the meaning provided in the recitals to this Deed of Trust.

"Loan Obligations" has the meaning provided in the recitals to this Deed of Trust.

"Manager" means Horizon/Glen Outlet Centers Limited Partnership or any permitted successor or assignee, as manager of the Facility.

"Material Lease" means any Lease pursuant to which the aggregate annual base rent and percentage rent based on the prior fiscal year exceeds \$100,000.

"Money" means all of the Grantor's rights, now or hereafter acquired, in all monies, cash, rights to deposit or savings accounts, credit card receipts or other items of legal tender obtained from or for use in connection with the operation of the Facility.

"Mortgaged Estate" has the meaning provided in the recitals to this Deed of Trust.

"Note" has the meaning provided in the recitals to this Deed of Trust.

"Permits" means, with respect to the Facility, all licenses, permits, allocations, authorizations, approvals and certificates obtained by or in the name of, or assigned to, the Grantor and used in connection with the ownership, operation, use or occupancy of the Facility, including, without limitation, building permits, business licenses, state health department licenses, food service licenses, liquor licenses, licenses to

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conduct business and all such other permits, licenses and rights, obtained by or in the name of, or assigned to, the Grantor from any Governmental Authority or private Person concerning ownership, operation, use or occupancy of the Facility.

"Permitted Encumbrances" means all matters set forth in Exhibit B attached hereto and made a part hereof, provided that to the extent any of the same are listed as subordinate, such matters are permitted only so long as they are in fact subordinate to this Deed of Trust.

"Person" means any individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

"Proceeds" means all of the Grantor's rights, now or hereafter acquired, in all proceeds, Rents, profits, products, Accounts, chattel paper, deposit accounts, Instruments, Equipment, Inventory, consumer goods, farm products, documents, General Intangibles and other proceeds whether cash or non-cash, movable or immovable, tangible or intangible (including Insurance Proceeds and Condemnation Proceeds) from the Collateral, including, without limitation, those from the sale, exchange, transfer, collection, loss, damage, disposition, substitution or replacement of any of the Collateral and all income, gain, credit, distributions and similar items from or with respect to the Collateral. In addition to the foregoing, "Proceeds" shall also include the meaning as such term has in the Uniform Commercial Code.

"Recourse Distributions" has the meaning provided in Section 7.14.

"Release" means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the indoor or outdoor environment, including, without limitation, the movement of Hazardous Substances through ambient air, soil, surface water, ground water, wetlands, land or subsurface strata.

"Rents" means all rents (whether denoted as base rent, advance rent, minimum rent, percentage rent, additional rent, reimbursements or otherwise), issues, income, royalties, profits, revenues, proceeds, bonuses, deposits (whether denoted as security deposits or otherwise), termination fees, rejection

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damages, buy-out fees and any other fees made or to be made in lieu of rent to the Grantor, any award made hereafter to the Grantor in any court proceeding involving any tenant, lessee, licensee or concessionaire under any of the Leases in any bankruptcy, insolvency or reorganization proceedings in any state or federal court, and all other payments, rights and benefits of whatever nature from time to time due to the Grantor under the Leases, including, without limitation, (i) rights to payment earned under the Leases and (ii) all other income, consideration, issues, accounts, profits or benefits of any nature arising from the possession, use and operation of the Facility.

"Security Interest Property" has the meaning provided in the recitals to this Deed of Trust.

"Taking" has the meaning provided in Section 2.12(a).

"Use" means, with respect to any Hazardous Substance, the generation, manufacture, processing, distribution, handling, use, treatment, recycling or storage of such Hazardous Substance or transportation to or from the property of such Person of such Hazardous Substance.

"Uniform Commercial Code" means the Uniform Commercial Code, as adopted by the State or States where any of the Mortgaged Estate is located.

Section 1.02. Interpretation of Defined Terms.

(a) Singular terms shall include the plural forms and vice versa, as applicable, of the terms defined.

(b) All references to other documents or instruments shall be deemed to refer to such documents or instruments as they may hereafter be extended, renewed, modified or amended, and all replacements and substitutions therefor.

ARTICLE II

Particular Covenants and Agreements of the Grantor

Section 2.01. Payment of Secured Loan Obligations.

The Grantor shall pay when due the principal of and the interest on the Loan evidenced by the Note and all charges, fees and other Loan Obligations as provided in the Loan Documents.

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Section 2.02. Title, etc.

(a) The Grantor represents and warrants that it has good, marketable and insurable fee simple title in and to the Facility, free and clear, to the best of the Grantor's knowledge, of all covenants, liens, encumbrances, restrictions, easements and other matters affecting title other than the Permitted Encumbrances. There are no outstanding options to purchase or rights of first refusal for the purchase of all or any portion of the Facility.

(b) The Grantor represents and warrants that, to the best of the Grantor's knowledge, it has good and absolute title to all existing personal property and fixtures included in the Mortgaged Estate, free and clear of all liens, charges and encumbrances whatsoever, including conditional sales contracts, chattel mortgages, security agreements, financing statements and everything of a similar nature other than the Permitted Encumbrances.

(c) The Grantor represents and warrants that it has the full power and lawful authority to grant, bargain, sell, release, convey, warrant, assign, transfer, pledge, set over and confirm unto the Deed of Trust Trustee for the benefit and security of the Beneficiary the Mortgaged Estate as hereinabove provided and warrants that it will forever defend the title to the Mortgaged Estate and the validity and priority of the lien or estate hereof, subject to the Permitted Encumbrances, against the claims and demands of all Persons whomsoever.

Section 2.03. Further Assurances; Filing; Re-Filing; etc.

(a) The Grantor shall execute, acknowledge and deliver, from time to time, such further instruments as the Beneficiary and the Deed of Trust Trustee may reasonably require to accomplish the purposes of this Deed of Trust.

(b) The Grantor, immediately upon the execution and delivery of this Deed of Trust, and thereafter from time to time, upon the Beneficiary's request, shall cause this Deed of Trust, any security agreement, mortgage or deed of trust supplemental hereto and each instrument of further assurance to be filed, registered or recorded and refiled, re-registered or re-recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and perfect the lien or estate of this Deed of Trust upon the Mortgaged Estate.

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(c) The Grantor shall pay all filing, registration and recording fees, all refiling, re-registration and re-recording fees, and all expenses incident to the execution, filing, recording and acknowledgment of this Deed of Trust, any security agreement or mortgage supplemental hereto and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of the execution, delivery, filing, registration and recording of the Note, this Deed of Trust or any of the other Loan Documents, any security agreement, mortgage or deed of trust supplemental hereto or any instruments of further assurance.

(d) In the event of the passage of any state, federal, municipal or other governmental law, order, rule or regulation, subsequent to the date hereof, in any manner changing or modifying the laws now in force governing the taxation of mortgages, security agreements, deeds of trust or debts secured thereby or the manner of collecting such taxes so as to adversely affect the Beneficiary or the Deed of Trust Trustee with respect to this Deed of Trust, the Grantor, to the extent permitted by applicable law, will pay any such tax on or before the due date thereof. If the Grantor fails to make such prompt payment or if, in the reasonable opinion of the Beneficiary, any such state, federal, municipal, or other governmental law, order, rule or regulation prohibits the Grantor from making such payment or would penalize the Beneficiary or the Deed of Trust Trustee if the Grantor makes such payment or if, in the reasonable opinion of the Beneficiary, the making of such payment might result in the imposition of interest beyond the Maximum Amount, then the entire balance of the Loan Obligations allocated to the Facility shall, at the option of the Beneficiary, become due and payable as provided in Section 2.12(i) of the Loan Agreement.

(e) The Grantor hereby indemnifies and holds the Beneficiary or the Deed of Trust Trustee harmless from any sales or use tax that may be imposed on the Beneficiary by virtue of the making of the Loan other than taxes imposed on the income of Beneficiary.

Section 2.04. Liens. Without limiting the obligations of the Grantor under Section 2.06, but subject to the Grantor's right to contest as described in Section 2.06(b), the Grantor shall not create or suffer to be created any mortgage, deed of trust, lien, security interest, charge or encumbrance upon the Mortgaged Estate prior to, on a parity with, or subordinate to the lien of this Deed of Trust other than a Permitted Encumbrance. The Grantor shall pay and promptly discharge at the

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Grantor's cost and expense, any such mortgages, deeds of trust, liens, security interests, charges or encumbrances upon the Mortgaged Estate or any portion thereof or interest therein.

Section 2.05. Insurance and Casualty Events.

(a) At all times while the Grantor is indebted to the Beneficiary, the Grantor shall maintain the following insurance:

(i) Insurance with respect to the Improvements, Equipment and Inventory against any peril included within the classification "All Risks of Physical Loss" with extended coverage in amounts at all times sufficient to prevent the Grantor from becoming a co-insurer within the terms of the applicable policies, but in any event such insurance shall be maintained in an amount equal to the full insurable value of the Improvements, Equipment and Inventory located on the Facility, the term "full insurable value" to mean the actual replacement cost of the Improvements, Equipment and Inventory (without taking into account any depreciation, and exclusive of excavations, footings and foundations, landscaping and paving) determined annually by an insurer or by the Grantor or, at the reasonable request of the Beneficiary, by an independent insurance broker (subject to the Beneficiary's reasonable approval);

(ii) Comprehensive general liability insurance, including bodily injury, death and property damage liability, and umbrella liability insurance against any and all claims, including all legal liability to the extent insurable imposed upon the Grantor and all court costs and attorneys' fees and expenses, arising out of or connected with the possession, use, leasing, operation, maintenance or condition of the Facility in such amounts as are generally required by institutional lenders for properties comparable to the Facility but in no event with limits of less than \$1,000,000 per occurrence with combined single limit coverage for bodily injury or property damage and excess (umbrella) liability coverage of no less than \$50,000,000 per occurrence (provided that in the event of a loss which results in a material reduction of the aggregate insurance coverage, the Grantor shall restore the aggregate insurance coverage to \$50,000,000);

(iii) Statutory workers' compensation insurance (to the extent the risks to be covered thereby are not already covered by other policies of insurance maintained by the

Grantor), with respect to any work on or about the Facility, in amounts and to the extent required by law;

(iv) Business interruption and/or loss of "rental value" insurance for the Facility in an amount equal to eighteen months' estimated Gross Revenue attributable to the Facility and based on the Gross Revenue for the immediately preceding year and otherwise sufficient to avoid any co-insurance penalty;

(v) If all or any portion of the Improvements, or any portion of the Land which, if lost, flooded or damaged by earthquake, would have a material adverse effect on the Facility as a whole, is located within a federally designated flood hazard zone or earthquake zone, flood or earthquake insurance in an amount equal to the lesser of the full insurable value of the Facility or the maximum amount available (provided, however, that if the Grantor believes that it is no longer obligated to maintain flood or earthquake insurance with respect to the Facility pursuant to this provision, the Grantor shall notify the Beneficiary of such circumstances and the Beneficiary shall have the opportunity to contest by appropriate legal or mutually agreeable arbitration proceedings whether or not the Grantor's obligation remains in effect in light of the criteria set forth in this provision);

(vi) Insurance against loss or damage from (A) leakage of sprinkler systems and (B) explosion of steam boilers, air conditioning equipment, pressure vessels or similar apparatus now or hereafter installed at the Facility, in such amounts as the Beneficiary may from time to time require and which are customarily required by institutional lenders with respect to similar properties similarly situated; and

(vii) Such other insurance with respect to the Improvements, Equipment and Inventory located on the Facility against loss or damage as is reasonably requested by the Beneficiary provided such insurance is of the kind from time to time customarily insured against and in such amounts as are generally required by institutional lenders for properties comparable to the Facility.

(b) The Grantor will maintain the insurance coverage described in Sections 2.05(a)(i) and 2.05(a)(iv) with one or more other domestic primary insurers having (or a syndicate of insurers through which at least 75% of the coverage (if there are

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four or fewer members of the syndicate) or at least 60% of the coverage (if there are five or more members of the syndicate) is with carriers having) a claims paying ability of not less than (x) AA by S&P and (y) AA by Fitch (or the equivalent by D&P) (and, with respect to such syndicates, with the balance with carriers having a claims paying ability of not less than (x) A by S&P and (y) A by Fitch (or the equivalent by D&P)); the coverage described in Sections 2.05(a)(i), 2.05(a)(ii), 2.05(a)(v), 2.05(a)(vi) and 2.05(a)(vii) with one or more other domestic primary insurers having a claims paying ability of not less than (x) AA by S&P and (y) AA by Fitch (or the equivalent by D&P); and the coverage described in Section 2.05(a)(iii) with either an insurer having a claims paying ability of not less than (x) AA by S&P and (y) AA by Fitch (or the equivalent by D&P) or the applicable state workers' compensation fund. In each case, however, if no domestic providers of such insurance are so rated, the requirement for such rating shall be that rating (x) by S&P and (y) by Fitch (or the equivalent by D&P) which is not reasonably likely to cause the downgrading or withdrawal of the rating of any class of Certificates then outstanding (as evidenced in writing by S&P); provided, however, that in the case of a syndicate failing to satisfy the foregoing test, supplementary qualifying coverage shall be required within 90 days of the date the Grantor learns of such failure only to the extent that syndicate fails to satisfy the test; and provided further, however, that in the event of any loss, claims in respect of a portion of such insurance maintained in accordance with Section 2.05(a)(i) shall be payable prior to claims in respect of the remaining portion(s) of the insurance required by such provisions. All insurance coverage shall be provided by one or more domestic primary insurers having a rating of "AA" or better by S&P. All insurers providing insurance required by this Deed of Trust shall be authorized to issue insurance in the state where the Facility is located.

The insurance coverage required under Section 2.05(a) may be effected under a blanket policy or policies covering the Mortgaged Estate and other property and assets not constituting a part of the Mortgaged Estate; provided that any such blanket policy shall specify, except in the case of public liability insurance, the portion of the total coverage of such policy that is allocated to the Facility and Equipment and Inventory located thereon, and any sublimits in such blanket policy applicable to the Mortgaged Estate, which amounts shall not be less than the amounts required pursuant to Section 2.05(a) and which shall in any case comply in all other respects with the requirements of this Section 2.05.

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(c) All insurance policies shall be in such form and with such endorsements as are comparable to the forms of and endorsements to the Grantor's insurance policies in effect on the date hereof or otherwise in accordance with commercially reasonable standards applied by prudent owners of property of the same type and quality as the Facility. Certified copies of all of the above-mentioned insurance policies have been delivered to and shall be held by the Beneficiary. All such liability policies shall name the Beneficiary and the Servicer as additional insureds. All such property insurance policies shall name the Beneficiary as a loss payee and shall provide that all Insurance Proceeds be payable to the Beneficiary as set forth in Section 2.05(d). All insurance policies, to the extent applicable, shall provide that in the event of a loss in excess of \$250,000, any proceeds check shall be made payable exclusively to the Beneficiary and shall contain: (i) a standard "non-contributory mortgagee" endorsement or its equivalent relating, inter alia, to recovery by the Beneficiary notwithstanding the negligent or willful acts or omissions of the Grantor; (ii) a waiver of subrogation endorsement as to the Beneficiary providing that no policy shall be impaired or invalidated by virtue of any act, failure to act, negligence of, or violation of declarations, warranties or conditions contained in such policy by the Grantor, the Beneficiary, or any other named insured, additional insured or loss payee, except for the willful misconduct of the Beneficiary knowingly in violation of the conditions of such policy; (iii) an endorsement indicating that neither the Beneficiary nor the Grantor shall be or be deemed to be a co-insurer with respect to any risk insured by such policies and shall provide for a deductible per loss of an amount not more than that which is customarily maintained by prudent owners of property of the same type and quality as the Facility, but in no event in excess of \$250,000; (iv) a provision that such policies shall not be canceled or amended, including, without limitation, any amendment reducing the scope or limits of coverage, without at least 30 days prior written notice to the Beneficiary in each instance; and (v) include effective waivers by the insurer of all claims for insurance premiums against any loss payees, additional insureds and named insureds (other than the Grantor). Certificates of insurance with respect to all renewal and replacement policies shall be delivered to the Beneficiary not less than ten days prior to the expiration date of any of the insurance policies required to be maintained hereunder which certificates shall bear notations evidencing payment of applicable premiums and originals (or certified copies) of such insurance policies shall be delivered to the Beneficiary promptly after the Grantor's receipt thereof. If the Grantor fails to maintain and deliver to the Beneficiary the original policies (or

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certified copies) or certificates of insurance required by this Deed of Trust, the Beneficiary may, at its option, after ten days' prior written notice to the Grantor and the Grantor's failure to cure such matter within said ten day period, procure such insurance, and the Grantor shall reimburse the Beneficiary for the amount of all premiums paid by the Beneficiary thereon within ten days after demand by the Beneficiary, with interest thereon at the Default Rate from the date paid by the Beneficiary to the date of repayment, and such sum shall be a part of the Loan Obligations secured by this Deed of Trust. The aggregate deductible applicable to all insurance policies required by this Deed of Trust shall not exceed five percent of annual Operating Income of the Facility.

The Beneficiary shall not by the fact of approving, disapproving, accepting, preventing, obtaining or failing to obtain any insurance, incur any liability for or with respect to the amount of insurance carried, the form or legal sufficiency of insurance contracts, solvency of insurance companies, or payment or defense of lawsuits, and the Grantor hereby expressly assumes full responsibility therefor and all liability, if any, with respect thereto.

(d) Subject to Section 2.05(e), the Beneficiary shall be entitled to all proceeds of either of the policies described in Sections 2.05(a)(i) and 2.05(a)(iv) net of the Grantor's reasonable collection costs approved by the Beneficiary (the "Insurance Proceeds") and all of the Insurance Proceeds are hereby assigned to the Beneficiary. The Grantor shall execute such further assignments of the Insurance Proceeds as the Beneficiary may from time to time reasonably require. Without limiting the generality of the foregoing, following the occurrence of any casualty or damage involving the Mortgaged Estate or any part thereof, the Grantor shall give prompt notice thereof to the Beneficiary and the Deed of Trust Trustee and shall cause all Insurance Proceeds payable as a result of such casualty or damage to be paid directly into the Cash Collateral Account or into the segregated interest bearing escrow account established in accordance with Section 2.13(b), as additional collateral security hereunder subject to the lien of this Deed of Trust.

(e) Notwithstanding anything to the contrary set forth in Section 2.05(d), the Beneficiary agrees that the Beneficiary shall make the net Insurance Proceeds (after payment of the Beneficiary's reasonable costs and expenses) attributable to the policies described in Section 2.05(a)(i) available to the Grantor for the Grantor's repair, restoration and replacement of the

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Improvements, Equipment and Inventory damaged or taken on the following terms and subject to the Grantor's satisfaction of the following conditions:

(i) At the time of such loss or damage and at all times thereafter while the Beneficiary is holding any portion of the Insurance Proceeds, there shall exist no Event of Default;

(ii) The Improvements, Equipment and Inventory for which loss or damage has resulted shall be capable of being restored (including replacements) to their pre-existing condition and utility in all material respects with a value equal to or greater than prior to such loss or damage and shall be capable of being completed prior to March 11, 2005;

(iii) The Grantor shall demonstrate to the Beneficiary's reasonable satisfaction the Grantor's ability to pay the Loan Obligations coming due during such restoration period, including through the use of Insurance Proceeds attributable to the policies described in Section 2.05(a)(iv);

(iv) The cost of the repair, restoration and replacement shall not exceed 50% of the replacement cost of the Improvements, Equipment and Inventory;

(v) The Grantor shall demonstrate to the Beneficiary's reasonable satisfaction that the Facility will have an occupancy rate of at least 75% upon completion of the restoration period;

(vi) Within 60 days from the date of such loss or damage the Grantor shall have given the Beneficiary a written notice electing to have the Insurance Proceeds applied for such purpose;

(vii) Within 60 days following the date of notice under subparagraph (vi) and prior to any Insurance Proceeds attributable to the policies described in Section 2.05(a)(i) being disbursed to the Grantor, the Grantor shall have provided to the Beneficiary all of the following:

(v) if loss or damage exceeds \$500,000, complete plans and specifications for restoration, repair and replacement of the Improvements, Equipment and Inventory damaged to the condition, utility and value required by the preceding subparagraph (ii),

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(w) if loss or damage exceeds \$500,000, fixed-price or guaranteed maximum cost construction contracts for completion of the repair and restoration work in accordance with such plans and specifications;

(x) if loss or damage exceeds \$500,000, builder's risk insurance for the full cost of construction with the Beneficiary named under a standard mortgagee loss-payable clause,

(y) such additional funds or other security as in the Beneficiary's reasonable opinion are necessary to complete the repair, restoration and replacement, and

(z) if loss or damage exceeds \$500,000, copies of all permits and licenses necessary to complete the work in accordance with the plans and specifications;

(viii) If loss or damage exceeds \$500,000, the Beneficiary may, at the Grantor's expense to the extent such expenses and fees are reasonable, retain an independent inspector to review and approve plans and specifications and completed construction and to approve all requests for disbursement, which approvals shall be conditions precedent to release of the Insurance Proceeds attributable to the policies described in Section 2.05(a)(i) as work progresses;

(ix) No portion of the Insurance Proceeds attributable to the policies described in Section 2.05(a)(i) shall be made available by the Beneficiary for purposes which are not directly attributable to the cost of repairing, restoring or replacing the Improvements, Equipment and Inventory for which a loss or damage has occurred unless the same are covered by such insurance;

(x) The Grantor shall commence such work within 90 days after such loss or damage and shall diligently pursue such work to completion;

(xi) If loss or damage exceeds \$500,000, each disbursement by the Beneficiary of the Insurance Proceeds attributable to the policies described in Section 2.05(a)(i) shall be funded subject to conditions and in accordance with disbursement procedures which a commercial construction lender would typically establish in the exercise of sound lending practices and shall be made only upon receipt of disbursement requests on an AIA G702/703 form (or similar form approved by the Beneficiary) signed and certified by

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the Grantor and its architect and general contractor with appropriate invoices and lien waivers as reasonably required by the Beneficiary;

(xii) The Beneficiary shall have a first lien and security interest in all building materials and completed repair and restoration work and in all fixtures and equipment acquired with the Insurance Proceeds attributable to the policies described in Section 2.05(a)(i), and the Grantor shall execute and deliver such mortgages, deeds of trust, security agreements, financing statements and other instruments as the Beneficiary shall reasonably request to create, evidence, or perfect such lien and security interest;

(xiii) In the event and to the extent such Insurance Proceeds are not required or used for the repair, restoration and replacement of the Improvements, Equipment and Inventory for which a loss or damage has occurred, or in the event the Grantor fails to timely make its election under the preceding subparagraph (vi) or having made such election fails to timely comply with the terms and conditions set forth in this Section 2.05(e), upon five Business Days prior notice to the Grantor and the Grantor's failure to cure such matter within such five-Business Day period, the Beneficiary shall be entitled without consent from the Grantor to apply the Insurance Proceeds, or the balance thereof, at the Beneficiary's option, either (x) to the full or partial payment or prepayment of the Loan Obligations in accordance with Section 2.7(b) of the Loan Agreement, or (y) to the repair, restoration and/or replacement of all or any part of such Improvements, Equipment and Inventory to which a loss or damage has occurred; and

(xiv) Prior to distribution of the Insurance Proceeds attributable to the policies described in Section 2.05(a)(i) for repair, the Grantor shall present evidence reasonably satisfactory to the Beneficiary that the insurance required by Section 2.05(a)(iv) has been purchased and is being maintained by the Grantor with respect to the Facility for the period of restoration.

Notwithstanding the foregoing, if the amount of the Insurance Proceeds is less than \$500,000, the Beneficiary shall make the net Insurance Proceeds (after payment of the Beneficiary's reasonable costs and expenses) attributable to the policies described in Section 2.05(a)(i) promptly available to the Grantor

for the Grantor's repair, restoration and replacement of the damaged Improvements, Equipment and Inventory if the condition set forth in subparagraph (i) of this Section 2.05(e) is satisfied.

(f) The Grantor appoints the Beneficiary to act after an Event of Default as the Grantor's attorney-in-fact, coupled with an interest, to cause the issuance of or an endorsement of any policy to bring the Grantor into compliance herewith and, as limited above, at the Beneficiary's sole option, to make any claim for, receive payment for, and execute and endorse any documents, checks or other instruments in payment for loss, theft, or damage covered under any such insurance policy; however, in no event will the Beneficiary be liable for failure to collect any amounts payable under any insurance policy.

(g) The Beneficiary shall be entitled at its option to participate in any compromise, adjustment or settlement in connection with any claims for loss, damage or destruction under any policy or policies of insurance, in excess of \$500,000, and the Grantor shall within ten Business Days after request therefor reimburse the Beneficiary for all reasonable out-of-pocket expenses (including reasonable attorneys' fees and disbursements) incurred by the Beneficiary in connection with such participation. The Grantor shall not make any compromise, adjustment or settlement in connection with any such claim in excess of \$500,000 without the approval of the Beneficiary (which shall not be unreasonably withheld or delayed).

(h) In the event of foreclosure of the lien of this Deed of Trust or other transfer of title or assignment of the Mortgaged Estate in extinguishment, in whole or in part, of the Loan Obligations, all right, title and interest of the Grantor in and to all policies of casualty insurance covering all or any part of the Mortgaged Estate shall inure to the benefit of and pass to the successors in interest to the Beneficiary or the purchaser or grantee of the Mortgaged Estate or any part thereof.

Section 2.06. Impositions.

(a) Subject to Section 2.06(b), the Grantor shall pay or cause to be paid, before any fine, penalty, interest or cost attaches thereto, all of the Impositions, as well as all claims for labor, materials or supplies that, if unpaid, might by law become a prior lien on the Mortgaged Estate, and shall submit to Beneficiary such evidence of the due and punctual payment of all such Impositions and claims as may be required by law; provided, however, that if by law any such Imposition may be paid in

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installments (whether or not interest shall accrue on the unpaid balance thereof), the Grantor may pay the same in installments (together with accrued interest on the unpaid balance thereof) as the same respectively become due, before any fine, penalty, interest or cost attaches thereto.

(b) The Grantor at its expense may, after prior notice to the Beneficiary, contest by appropriate legal, administrative or other proceedings conducted in good faith and with due diligence, the amount or validity or application, in whole or in part, of any Imposition or lien therefor, any claims of mechanics, materialmen, suppliers or vendors or lien thereof or any other Lien, and may withhold payment of the same pending such proceedings if permitted by law, as long as (i) in the case of any Impositions or lien therefor, any claims of mechanics, materialmen, suppliers or vendors or lien thereof or any other Lien, such proceedings shall suspend the collection thereof from the Mortgaged Estate, (ii) neither the Mortgaged Estate nor any part thereof or interest therein will be sold, forfeited or lost if the Grantor pays the amount or satisfies the condition being contested, and the Grantor would have the opportunity to do so, in the event of the Grantor's failure to prevail in the contest, (iii) the Beneficiary and the Deed of Trust Trustee would not, by virtue of such permitted contest, be exposed to any risk of any civil liability for which the Grantor has not furnished additional security as provided in clause (iv) below, or to any risk of criminal liability, and neither the Mortgaged Estate nor any interest therein would be subject to the imposition of any Lien for which the Grantor has not furnished additional security as provided in clause (iv) below, as a result of the failure to comply with such law or of such proceeding and (iv) the Grantor shall have furnished to the Beneficiary additional security in respect of the claim being contested or the loss or damage that may result from the Grantor's failure to prevail in such contest in such amount as may be reasonably requested by the Beneficiary.

(c) The Grantor shall fund the Basic Carrying Costs Sub-Account to the extent required pursuant to Section 2.12(g)(ii) and Section 2.12(f) of the Loan Agreement, and the real property taxes and assessments applicable to the Facility shall be paid from the Basic Carrying Costs Sub-Account in accordance with Section 2.12(f)(ii) of the Loan Agreement.

Section 2.07. Maintenance of the Improvements and Equipment. The Grantor shall not permit the Improvements or Equipment to be removed or demolished (provided, however, that, the Grantor may remove or alter such Improvements and Equipment that become obsolete in the usual conduct of the Grantor's

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business or the removal or alteration of which do not materially detract from the operation of the Grantor's business); shall maintain the Mortgaged Estate in good repair, working order and condition, except for reasonable wear and use; shall not commit or suffer any waste; shall not do or suffer to be done anything which is likely to increase the risk of fire or other hazard to the Mortgaged Estate or which is likely to result in the cancellation of any insurance policy carried with respect to the Mortgaged Estate; and shall, subject to receipt of the Insurance Proceeds or the Condemnation Proceeds, restore and repair the Improvements and Equipment or any part thereof now or hereafter damaged or destroyed by any fire or other casualty or affected by any Taking; provided, however, that if the fire or other casualty is not insured against or insurable, the Grantor shall so restore and repair even though no Insurance Proceeds or Condemnation Proceeds are received.

Section 2.08. Compliance With Laws.

(a) Except for matters set forth in the Engineering Report and the Environmental Report (both regarding the Facility and described in the Loan Agreement) obtained in connection with the making of the Loan and except for the matters described in clause (b) below (as to which the provisions of said clause (b) shall apply), the Grantor represents and warrants that, to the best of the Grantor's knowledge, the Facility and the Grantor's operations at and use of the Facility currently comply in all material respects with all Legal Requirements, including, without limitation, building and zoning ordinances and codes, and all applicable Insurance Requirements.

(b) The Grantor hereby confirms the representations and warranties set forth in Section 4.1(P) of the Loan Agreement (relating to liabilities of the Grantor under applicable Environmental Laws) insofar as such representations and warranties apply to the Mortgaged Estate.

(c) The Grantor shall notify the Beneficiary promptly of any written notice or order that the Grantor receives from any Governmental Authority with respect to the Grantor's compliance with any Legal Requirements, including Environmental Laws, relating to the Facility and which is reasonably expected to have a Material Adverse Effect and promptly take any and all actions necessary to bring its operations at the Facility into compliance with such Legal Requirements, including Environmental Laws, (and shall fully comply with the requirements of such Legal Requirements, including Environmental Laws, that at any time are applicable to its operations at the Facility) all to the extent

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required under the applicable provisions of the Loan Agreement; provided, that the Grantor at its expense may, after prior notice to the Beneficiary, contest by appropriate legal, administrative or other proceedings conducted in good faith and with due diligence, the validity or application, in whole or in part, of any such Legal Requirements, excluding Environmental Laws, as long as (i) neither the Mortgaged Estate nor any part thereof or any interest therein, will be sold, forfeited or lost if the Grantor pays the amount or satisfies the condition being contested, and the Grantor would have the opportunity to do so, in the event of the Grantor's failure to prevail in the contest, (ii) the Beneficiary and the Deed of Trust Trustee would not, by virtue of such permitted contest, be exposed to any risk of any civil liability for which the Grantor has not furnished additional security as provided in clause (iii) below, or to any risk of criminal liability, and neither the Mortgaged Estate nor any interest therein would be subject to the imposition of any Lien for which the Grantor has not furnished additional security as provided in clause (iii) below as a result of the failure to comply with such Legal Requirement or of such proceeding and (iii) the Grantor shall have furnished to the Beneficiary additional security in respect of the claim being contested or the loss or damage that may result from the Grantor's failure to prevail in such contest in such amount as may be reasonably requested by the Beneficiary. The Grantor's right to contest the need to perform Remedial Work required pursuant to Environmental Laws is governed by Section 5.1(D)(i) of the Loan Agreement.

(d) After 30 days' prior written notice and the Grantor's failure to so comply within such period (or such longer cure periods as may be afforded the Grantor under Section 7.1 of the Loan Agreement), but subject to subparagraph (c) above, the Beneficiary, at its election and in its sole discretion may (but shall not be obligated to) cure any failure on the part of the Grantor to comply as required by subparagraph (c) with any Legal Requirements, including Environmental Laws, and, without limitation, may take any of the following actions:

(i) arrange for the prevention of any Release or threat of Release of Hazardous Substances at the Facility in violation of, or potentially requiring clean up under, Environmental Laws, and pay any costs associated with such prevention;

(ii) arrange for the removal or remediation of Hazardous Substances that may be Released or result from a Release at the Facility in violation of, or potentially

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requiring clean up under, Environmental Laws, and pay any costs associated with such removal and/or remediation;

(iii) pay, on behalf of the Grantor, any costs, fines or penalties imposed on the Grantor by any Governmental Authority in connection with such Release or threat of Release of Hazardous Substances in violation of, or potentially requiring clean up under, Environmental Laws; or

(iv) make any other payment or perform any other act intended to prevent a Lien in favor of any Governmental Authority from attaching to the Mortgaged Estate.

Any partial exercise by the Beneficiary of the remedies hereinabove set forth, or any partial undertaking on the part of the Beneficiary to cure the Grantor's failure to comply with such Legal Requirements, including Environmental Laws, shall not obligate the Beneficiary to complete the actions taken or require the Beneficiary to expend further sums to cure the Grantor's noncompliance; nor shall the exercise of any such remedies operate to place upon the Beneficiary any responsibility for the operation, control, care, management or repair of the Facility or make the Beneficiary the "operator" of the Facility within the meaning of any Environmental Laws. Any amount paid or costs incurred by the Beneficiary as a result of the exercise by the Beneficiary of any of the rights hereinabove set forth, together with interest thereon at the Default Rate from the date paid by the Beneficiary, shall be due and payable by the Grantor to the Beneficiary within ten days after demand therefor, and until paid shall be added to and become a part of the Loan Obligations secured hereby; and the Beneficiary, by making any such payment or incurring any such costs, shall be subrogated to any rights of the Grantor to seek reimbursement from any third parties, including, without limitation, a predecessor-in-interest to the Grantor's title who may be a "responsible party" or otherwise liable under any Environmental Law in connection with any such Release or threat of Release of Hazardous Substances.

(e) The Grantor agrees to indemnify, reimburse, defend, and hold harmless the Beneficiary, Servicer and Trustee for, from, and against all demands, claims, actions or causes of action, assessments, losses, damages, liabilities, costs and expenses, including, without limitation, interest, penalties, consequential damages, reasonable attorneys' fees, disbursements and expenses, and reasonable consultants' fees, disbursements and expenses (but excluding internal overhead, administrative and similar costs of the Beneficiary, Servicer and Trustee), asserted against, resulting to, imposed on, or incurred by the

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Beneficiary, Servicer and Trustee, directly or indirectly, in connection with any of the following, except to the extent same are directly caused by (x) the Beneficiary's, Servicer's or Trustee's negligence or willful misconduct, (y) actions taken or omitted to be taken by the Beneficiary, Servicer, Trustee or any purchaser at a foreclosure sale (or any such party's successors or assigns) after any such party acquires title to the Facility through foreclosure, deed in lieu of foreclosure or otherwise or (z) actions taken or omitted to be taken by the Beneficiary, Servicer or Trustee (or any such party's successors or assigns) after such party becomes a mortgagee-in-possession or otherwise takes possession or control of the Facility following an Event of Default (it being the Grantor's burden to prove such causation):

(i) events, circumstances, or conditions which are alleged to, or do, form the basis for an Environmental Claim;

(ii) any Environmental Claim against any Person whose liability for such Environmental Claim the Grantor has or may have assumed or retained either contractually or by operation of law; or

(iii) the breach of any environmental representation, warranty or covenant set forth in this Deed of Trust or the Loan Agreement.

The indemnity provided in this Section 2.08(e) shall not be included in any exculpation of the Grantor or its partners from personal liability provided in this Deed of Trust or in any of the other Loan Documents. Nothing in this Section 2.08(e) shall be deemed to deprive the Beneficiary of any rights or remedies provided to it elsewhere in this Deed of Trust or the other Loan Documents or otherwise available to it under law.

Section 2.09. Limitations of Use. The Grantor shall not, without the prior written consent of the Beneficiary, (a) materially change the use of the Facility as of the Closing Date or (b) initiate, join in or consent to any change in any private restrictive covenant, zoning ordinance or other public or private restrictions materially limiting or redefining the uses that may be made of the Facility or any part thereof, except in connection with additional or alternate uses not prohibited pursuant to clause (a) above. The Grantor shall comply with the provisions of all leases, licenses, agreements and private covenants, conditions and restrictions that at any time are applicable to the Facility except where the failure to comply is not reasonably likely to have a Material Adverse Effect.

Section 2.10. Inspection of the Property. The Grantor shall keep adequate records, accounts and books in accordance with generally accepted accounting principles (or such other accounting basis reasonably acceptable to the Beneficiary) consistently applied and shall permit the Beneficiary and its authorized representatives to enter the Facility and inspect the Mortgaged Estate, to examine the records, accounts and books of the Grantor with respect thereto and make copies or extracts thereof, all upon reasonable advance notice and at such reasonable times as may be requested by the Beneficiary and without unreasonable interference with operations, subject, however, to the rights of the tenants or occupants of the Facility.

Section 2.11. Actions to Protect Mortgaged Estate. If the Grantor shall fail to (a) effect the insurance required by Section 2.05, or (b) make the payments required by Section 2.06, the Beneficiary may, without obligation to do so, and upon five Business Days' notice to the Grantor (except in an emergency) and the Grantor's failure to cure within such period, effect or pay the same. If the Grantor shall fail to perform or observe any of its other covenants or agreements hereunder, the Beneficiary may, without obligation to do so, and upon 30 days' prior written notice to the Grantor (except in an emergency) and the Grantor's failure to cure within such period (or such longer cure periods as may be afforded the Grantor under Section 7.1 of the Loan Agreement), effect the same. To the maximum extent permitted by law, all sums, including reasonable attorneys' fees and disbursements, so expended or expended to sustain the lien or estate of this Deed of Trust or its priority, or to protect or enforce any of the rights hereunder, or to recover any of the Loan Obligations, shall be a lien on the Mortgaged Estate, shall be deemed to be added to the Loan Obligations secured hereby, and shall be paid by the Grantor within ten days after demand therefor, together with interest thereon at the Default Rate from the date of demand by the Beneficiary.

Section 2.12. Condemnation.

(a) Should the Mortgaged Estate or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner (a "Taking"), or should the Grantor receive any written notice regarding any such proceeding, the Grantor shall give prompt notice thereof to the Beneficiary and the Deed of Trust Trustee.

(b) Subject to Section 2.12(c), the Beneficiary shall be entitled to all compensation, awards, damages and other

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payments or relief arising out of any Taking involving the Mortgaged Estate or any part thereof net of the Grantor's reasonable collection costs approved by the Beneficiary (collectively, "Condemnation Proceeds"), and all such compensation, awards, damages and other payments or relief, together with all rights and causes of action relating thereto or arising out of any Taking, are hereby assigned to the Beneficiary. The Grantor shall execute such further assignments of the Condemnation Proceeds as the Beneficiary may from time to time require. Without limiting the generality of the foregoing, following the occurrence of any Taking involving the Mortgaged Estate or any part thereof, the Grantor shall cause all Condemnation Proceeds payable as a result of such Taking to be paid directly into the Cash Collateral Account or into the segregated interest bearing escrow account established in accordance with Section 2.13(b), as additional collateral security hereunder subject to the lien of this Deed of Trust.

(c) Notwithstanding anything to the contrary in paragraph (b), the Beneficiary agrees that the Beneficiary shall make the Condemnation Proceeds available to the Grantor for the Grantor's repair, restoration and replacement of the Improvements, Equipment and Inventory affected by the Taking on the following terms and subject to the Grantor's satisfaction of the following conditions:

(i) At the time of such Taking and at all times thereafter while the Beneficiary is holding any portion of the Condemnation Proceeds, there shall exist no Event of Default;

(ii) The Improvements, Equipment and Inventory affected by the Taking shall be capable of being restored to their pre-existing condition and utility in all material respects with a value equal to or greater than prior to such Taking and shall be capable of being completed prior to March 11, 2005;

(iii) The Grantor shall demonstrate to the Beneficiary's reasonable satisfaction the Grantor's ability to pay the Loan Obligations coming due during such restoration period, including through the use of Insurance Proceeds attributable to the policies described in Section 2.05(a)(iv);

(iv) The cost of the repair, restoration and replacement shall not exceed 50% of the replacement cost of the Improvements, Equipment and Inventory;

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(v) The Grantor shall demonstrate to the Beneficiary's reasonable satisfaction that the Facility will have an occupancy rate of at least 75% upon completion of the restoration period;

(vi) Within 60 days from the date of such Taking the Grantor shall have given the Beneficiary and the Deed of Trust Trustee a written notice electing to have the Condemnation Proceeds applied for such purpose;

(vii) Within 60 days following the date of notice under the preceding subparagraph (vi) and prior to any Condemnation Proceeds being disbursed to the Grantor, the Grantor shall have provided to the Beneficiary all of the following:

(v) if loss or damage exceeds \$500,000, complete plans and specifications for restoration, repair and replacement of the Improvements, Equipment and Inventory damaged to the condition, utility and value required by the preceding subparagraph (ii),

(w) if loss or damage exceeds \$500,000, fixed-price or guaranteed maximum cost construction contracts for completion of the repair and restoration work in accordance with such plans and specifications,

(x) if loss or damage exceeds \$500,000, builder's risk insurance for the full cost of construction with the Beneficiary named under a standard mortgagee loss-payable clause,

(y) such additional funds or other security as in the Beneficiary's reasonable opinion are necessary to complete the repair, restoration and replacement, and

(z) if loss or damage exceeds \$500,000, copies of all permits and licenses necessary to complete the work in accordance with the plans and specifications;

(viii) If loss or damage exceeds \$500,000, the Beneficiary may, at the Grantor's expense to the extent such expenses and fees are reasonable, retain an independent inspector to review and approve plans and specifications and completed construction and to approve all requests for disbursement, which approvals shall be conditions precedent to release of the Condemnation Proceeds as work progresses;

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(ix) No portion of the Condemnation Proceeds shall be made available by the Beneficiary for purposes which are not directly attributable to the cost of repairing, restoring or replacing the Improvements, Equipment and Inventory;

(x) The Grantor shall commence such work within 90 days after such Taking and shall diligently pursue such work to completion;

(xi) If loss or damage exceeds \$500,000, each disbursement by the Beneficiary of the Condemnation Proceeds shall be funded subject to conditions and in accordance with disbursement procedures which a commercial construction lender would typically establish in the exercise of sound lending practices and shall be made only upon receipt of disbursement requests on an AIA G702/703 form (or similar form approved by the Beneficiary) signed and certified by the Grantor and its architect and general contractor with appropriate invoices and lien waivers as reasonably required by the Beneficiary;

(xii) The Beneficiary shall have a first lien and security interest in all building materials and completed repair and restoration work and in all fixtures and equipment acquired with the Condemnation Proceeds, and the Grantor shall execute and deliver such mortgages, deeds of trust, security agreements, financing statements and other instruments as the Beneficiary shall reasonably request to create, evidence, or perfect such lien and security interest;

(xiii) In the event and to the extent the Condemnation Proceeds are not required or used for the repair, restoration and replacement of the Improvements, Equipment and Inventory affected by the Taking, or in the event the Grantor fails to timely make its election under subparagraph (vi) or having made such election fails to timely comply with the terms and conditions set forth in this Section 2.12(c), upon five Business Days prior notice to the Grantor and the Grantor's failure to cure such matter within such five-Business-Day period, the Beneficiary shall be entitled without consent from the Grantor to apply the Condemnation Proceeds, or the balance thereof, at the Beneficiary's option, either (x) to the full or partial payment or prepayment of the Loan Obligations in accordance with Section 2.7(b) of the Loan Agreement, or (y) to the repair, restoration and/or replacement of all or any part of such

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Improvements, Equipment and Inventory affected by the Taking; and

(xiv) Prior to distribution of the Condemnation Proceeds for repair, the Grantor shall present evidence reasonably satisfactory to the Beneficiary that the insurance required by Section 2.05(a)(iv) has been purchased and is being maintained by the Grantor with respect to the Facility for the period of restoration.

Notwithstanding the foregoing, if the amount of the Condemnation Proceeds is less than \$500,000, the Beneficiary shall make the net Condemnation Proceeds (after payment of the Beneficiary's reasonable costs and expenses) promptly available to the Grantor for the Grantor's repair, restoration and replacement of the Improvements, Equipment and Inventory affected by the taking if the condition set forth in subparagraph (i) of this Section 2.12(c) is satisfied.

(d) The Beneficiary shall be entitled at its option to participate in any compromise, adjustment or settlement in connection with any Taking involving an amount in controversy in excess of \$500,000, and the Grantor shall within ten Business Days after request therefor reimburse the Beneficiary for all reasonable out-of-pocket expenses (including reasonable attorneys' fees and disbursements) incurred by the Beneficiary in connection with such participation. The Grantor shall not make any compromise, adjustment or settlement in connection with any such claim in excess of \$500,000 without the approval of the Beneficiary (which shall not be unreasonably withheld or delayed).

Section 2.13. Insurance and Condemnation Proceeds.

(a) In the event of a casualty or Taking with respect to the Mortgaged Estate, the Grantor and the Beneficiary shall cause all of the Insurance Proceeds and the Condemnation Proceeds (collectively, the "Loss Proceeds"), except for those to be made available to the Grantor for restoration pursuant to Section 2.05(e) or Section 2.12(c) (as the case may be), to be paid by the respective insurers directly to the Cash Collateral Account, whereupon the Beneficiary shall apply same to reduce the Loan Obligations in accordance with Section 2.7(b) of the Loan Agreement.

(b) In the event that Loss Proceeds are to be applied toward restoration, the Beneficiary shall hold such funds in a segregated escrow account at the Bank, and shall disburse same in

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accordance with Section 2.05(e)(xi) or Section 2.12(c)(xi), as the case may be; provided, however, that if (i) the provisions of Section 2.05(e)(i) - (vi) are satisfied, all Insurance Proceeds of policies described in Section 2.05(a)(iv) (in respect of any insurance policy providing business interruption coverage) and (ii) the provisions of Section 2.12(c)(i) - (vi) are satisfied, any Condemnation Proceeds received in connection with a temporary Taking shall be maintained in the Cash Collateral Account, to be applied by the Beneficiary in the same manner as Rent unless the Beneficiary becomes entitled by reason of Grantor's default to apply Insurance Proceeds pursuant to Section 2.05(e)(xiii) or Condemnation Proceeds pursuant to Section 2.12(c)(xiii); provided, further, that in the event that (i) the Insurance Proceeds of policies described in Section 2.05(a)(iv) or (ii) the Condemnation Proceeds of any such temporary Taking are paid in a lump sum in advance, the Beneficiary shall hold such Loss Proceeds in a segregated interest-bearing escrow account at the Bank (with the interest earned to be applied in the same manner as the Loss Proceeds), shall estimate, in the Beneficiary's reasonable discretion, the number of months required for the Grantor to restore the damage caused by the casualty or that such Mortgaged Estate shall be affected by such temporary Taking, as the case may be, shall divide the aggregate business interruption Insurance Proceeds or Condemnation Proceeds by such number of months, and shall disburse from such escrow account into the Cash Collateral Account each month during the performance of such restoration such monthly installment of said Loss Proceeds.

(c) Notwithstanding the foregoing, if any Loss Proceeds are received by the Grantor, such Loss Proceeds shall be received in trust for the Beneficiary, shall be segregated from other funds of the Grantor, and shall be forthwith paid to the Cash Collateral Account, or paid to the Beneficiary to hold in a segregated escrow account, in each case to be applied or disbursed in accordance with paragraph (a) or paragraph (b) of this Section 2.13. Any Loss Proceeds made available to the Grantor for restoration in accordance herewith, to the extent not used by the Grantor in connection with, or to the extent they exceed the cost of such restoration, shall be deposited into the Cash Collateral Account whereupon the Beneficiary shall apply the same to reduce the Loan Obligation in accordance with Section 2.7(b) of the Loan Agreement.

Section 2.14. Leases; Management Agreements.

(a) Leases. Except as provided in this Section 2.14(a), Grantor may enter into, terminate, modify or amend Leases without Beneficiary's approval. Grantor shall:

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(i) not enter into any Material Lease if the rent payable thereunder would be less than 90% of the rent paid by the tenant(s) formerly leasing the space covered by such Material Lease or make a material modification to any Material Lease, in each instance, without Beneficiary's approval, which approval shall not be unreasonably withheld or delayed;

(ii) not terminate any Material Lease except in connection with a Tenant default without Beneficiary's approval, which approval shall not be unreasonably withheld or delayed;

(iii) not permit the prepayment of any Rents due under any Lease for more than 30 days in advance nor for more than the next accruing installment of rents, unless any such prepaid rents are deposited in the Rent Payment Sub-Account;

(iv) perform all material obligations required to be performed by Grantor under each Lease, until the occurrence of a default by the Tenant under such Lease;

(v) deliver to Beneficiary any notices of default received by Grantor from any Tenants of any Material Leases within three days after receipt thereof by Grantor;

(vi) not further assign any Rent due under the Leases or Grantor's interest as landlord under the Leases;

(vii) deliver to Beneficiary at Beneficiary's request copies of all Material Leases;

(viii) not Transfer or suffer or permit to occur a Transfer of all or any part of the Facility or of any interest therein so as to effect a merger of the estates and rights of lessees thereunder;

(ix) in accordance with Grantor's normal and customary business practices, make all reasonable efforts to seek lessees for rentable space as it becomes vacant and enter into Leases in accordance with the terms hereof;

(x) assign and transfer to Beneficiary any and all subsequent Leases;

(xi) not enter into any Lease with an Affiliate without Beneficiary's approval, which approval shall not be unreasonably withheld or delayed; and

(xii) without limiting any other provision hereof, execute and deliver at the request of Beneficiary all such further assurances, confirmations and assignments in connection with the Facility as Beneficiary shall from time to time reasonably require in order to accomplish the purposes of this Deed of Trust; provided, however, that no such further assurances, confirmations and assignments shall increase the Grantor's obligations or diminish the Grantor's rights under the Loan Documents.

If the Beneficiary does not respond to a request for approval pursuant to clauses (i), (ii) or (xi) of this Section 2.14(a) within ten Business Days after such request is deemed given pursuant to Section 8.6 of the Loan Agreement, the Grantor may send a second request for such consent which will be marked "SECOND REQUEST". If the Beneficiary does not respond to such second request within three Business Days after it is deemed given, the Beneficiary shall be deemed to have given such consent.

(b) Management Agreements. The Grantor shall not, without the prior written consent of the Beneficiary (which consent shall not be unreasonably withheld, delayed or conditioned), enter into, amend or terminate any Management Agreements.

ARTICLE III

Assignment of Rents, Issues and Profits

Section 3.01. Assignment of Rents, Issues and Profits. The Grantor does hereby absolutely and unconditionally assign to the Beneficiary the Grantor's right, title and interest in all Leases and Rents, it being intended by the Grantor that this assignment constitutes a present, absolute assignment and not an assignment for additional security only, subject, however, to the license granted to the Grantor as hereinafter described. Such assignment to the Beneficiary shall not be construed to bind the Beneficiary to the performance of any of the covenants, conditions or provisions contained in any of the Leases or otherwise impose any obligation upon the Beneficiary unless and until the Beneficiary exercises its rights and remedies under the Loan Documents to take over the management or possession of the

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Facility or to revoke the license granted to the Grantor. The Grantor agrees to execute and deliver to the Beneficiary such additional instruments, in form and substance reasonably satisfactory to the Beneficiary, as may hereafter be requested by the Beneficiary to further evidence and confirm such assignment. Nevertheless, subject to the terms of this Section 3.01, the Beneficiary grants to the Grantor a license, revocable as hereinafter provided, to operate and manage the Facility and to collect and use the Rents subject to the requirements of the Loan Agreement. In accordance with Section 2.12(a) of the Loan Agreement, all tenants under existing Leases have been notified by the Grantor to commence paying Rents to the Property Collection Account as of the date hereof and the Grantor shall notify all tenants under future Leases that all payments of the Rents shall be made to the Property Collection Account. Amounts in the Property Collection Account will be forwarded to the Cash Collateral Account or to an account designated by the Grantor as provided in Section 2.12(g) of the Loan Agreement. Upon the occurrence and during the continuance of an Event of Default, the license granted to the Grantor herein may be revoked by the Beneficiary, and the Beneficiary shall immediately be entitled to possession of all of the Rents then in the Property Collection Account and the Cash Collateral Account and all Rents collected thereafter (including Rents past due and unpaid), whether or not the Beneficiary enters upon or takes control of the Facility, all to the extent permitted by applicable law. The Beneficiary is hereby granted and assigned by the Grantor the right, at its option, upon revocation of the license granted herein, to enter upon the Facility in person, by agent or by court appointed receiver to collect the Rents, all to the extent permitted by applicable law. Any of the Rents collected after the revocation of the license may be applied toward payment of the Loan Obligations in accordance with Sections 2.8 and 2.12 of the Loan Agreement.

ARTICLE IV

Security Agreement

Section 4.01: Security Agreement. This Deed of Trust creates a lien on and a security interest in favor of the Beneficiary in the Security Interest Property, and shall constitute a security agreement and a "fixture filing" under the applicable Uniform Commercial Code or other law applicable to the creation of liens on and security interests in personal property. This Deed of Trust shall constitute a financing statement under the applicable Uniform Commercial Code with the Grantor as the

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"debtor" and the Beneficiary as the "secured party". If an Event of Default occurs, the Beneficiary, in addition to the rights and remedies granted to the Beneficiary by applicable law and this Deed of Trust, shall have all rights and remedies of a secured party under the applicable Uniform Commercial Code, subject to the terms of Section 7.14. Any notice of sale, disposition or other intended action by the Beneficiary with respect to the Beneficiary's rights under such Uniform Commercial Code sent to the Grantor in accordance with the notice provision hereof at least ten days prior to such action shall constitute reasonable notice to the Grantor. The proceeds of any such sale or disposition, or any part thereof, may be applied by the Beneficiary to the payment of the Loan Obligations in accordance with Section 2.8 of the Loan Agreement.

Section 4.02. Covenants. The Grantor hereby understands, covenants and agrees that: (a) the Equipment and Inventory will be kept on or at the Facility and the Grantor will not remove any Equipment or Inventory from the Facility, except such portions or items of the Equipment or Inventory that are consumed or worn out in ordinary usage, all of which shall be promptly replaced by the Grantor, except as otherwise expressly provided in Section 2.07 with respect to Equipment, (b) all covenants and obligations of the Grantor contained herein relating to the Mortgaged Estate shall be deemed to apply to the Equipment and Inventory whether or not expressly referred to herein and (c) this Deed of Trust constitutes a security agreement and "fixture filing" as those terms are used in the applicable Uniform Commercial Code. Information relative to the security interest created hereby may be obtained by application to the Beneficiary (secured party) c/o Milbank, Tweed, Hadley & McCloy, 1 Chase Manhattan Plaza, New York, New York 10005, Attention: Barbara J. Briggs, Esq. The mailing addresses of the Grantor and the Beneficiary are set forth on Page 1.

ARTICLE V

Events of Default; Remedies

Section 5.01. Events of Default. The term "Event of Default" wherever used in this Deed of Trust, shall mean any one or more of the following events:

- (a) The occurrence of any Event of Default (as defined in the Loan Agreement); or

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(b) Except as permitted by the Loan Agreement or this Deed of Trust, the sale, transfer, lease of all or substantially all, assignment, or other disposition, voluntarily or involuntarily, of the Mortgaged Estate, or any part thereof or any interest therein, including a sale or transfer in lieu of a Taking, or, except for Permitted Encumbrances, any further encumbrance of the Mortgaged Estate, unless the prior written consent of the Beneficiary is obtained (which consent may be withheld with or without cause in the Beneficiary's discretion).

Section 5.02. Acceleration of Maturity. If an Event of Default shall have occurred and be continuing, then the entire principal amount of the indebtedness secured hereby with interest accrued thereon shall, at the option of the Beneficiary, become due and payable without notice or demand, time being of the essence; and any omission on the part of the Beneficiary to exercise such option when entitled to do so shall not be considered as a waiver of such right.

Section 5.03. Default Remedies.

(a) If an Event of Default shall have occurred and be continuing, subject to the provisions of Section 7.14, this Deed of Trust may, to the maximum extent permitted by law, be enforced, and the Beneficiary may at its election and by and through the Deed of Trust Trustee or otherwise exercise any right, power or remedy permitted to it hereunder, under the Loan Agreement or under any of the other Loan Documents or by law, and, without limiting the generality of the foregoing, the Beneficiary may, personally or by its agents, to the maximum extent permitted by law:

(i) enter into and take possession of the Mortgaged Estate or any part thereof, exclude the Grantor and all Persons claiming under the Grantor whose claims are junior to this Deed of Trust, wholly or partly therefrom, and use, operate, manage and control the same either in the name of the Grantor or otherwise as the Beneficiary shall deem best, and upon such entry, from time to time at the expense of the Grantor and the Mortgaged Estate, make all such repairs, replacements, alterations, additions or improvements to the Facility or any part thereof as the Beneficiary may deem proper and, whether or not the Beneficiary has so entered and taken possession of the Mortgaged Estate or any part thereof, collect and receive all Rents and apply the same to the payment of all expenses that the Beneficiary may be authorized to make under this Deed of Trust, the remainder to be applied to the payment of the Loan Obligations until

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the same shall have been repaid in full; if the Beneficiary demands or attempts to take possession of the Mortgaged Estate or any portion thereof in the exercise of any rights hereunder, the Grantor shall promptly turn over and deliver complete possession thereof to the Beneficiary; and

(ii) personally or by agents, with or without entry, if the Beneficiary or the Deed of Trust Trustee shall deem it advisable:

(x) should Beneficiary elect to foreclose nonjudicially by exercise of the power of sale herein contained, Beneficiary shall notify Deed of Trust Trustee and Deed of Trust Trustee shall sell the Mortgaged Estate, in accordance with the Deed of Trust Act of the State of Washington, at public auction to the highest bidder. In case of a sale under this Deed of Trust, the said property, including the fixtures and the personal property, may be sold in one or more parcels. Any Person except Deed of Trust Trustee may bid at the Deed of Trust Trustee's sale. The Deed of Trust Trustee shall apply the proceeds of the sale in accordance with Section 5.04 to the extent permitted by state law and otherwise as required by state law. The Deed of Trust Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor has or had the power to convey at the time of its execution of this Deed of Trust, and such as it may have acquired thereafter. The Deed of Trust 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 purchasers and encumbrancers for value. 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 and when not exercised, the Beneficiary may foreclose this Deed of Trust as a mortgage. The Deed of Trust Trustee is not obligated to notify any party hereto of a pending sale under any other Deed of Trust or of any action or proceeding in which the Grantor, the Deed of Trust Trustee or the Beneficiary shall be a party unless such action or proceeding is brought by the Deed of Trust Trustee;

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(y) proceed to protect and enforce its rights under this Deed of Trust, by suit for specific performance of any covenant contained herein or in the Loan Documents or in aid of the execution of any power granted herein or in the Loan Documents, or for the foreclosure of this Deed of Trust and the sale of the Mortgaged Estate under the judgment or decree of a court of competent jurisdiction, or for the enforcement of any other right as the Beneficiary shall deem most effectual for such purpose, provided, that in the event of a sale of less than all of the Mortgaged Estate, this Deed of Trust shall continue as a lien on, and security interest in, the remaining portion of the Mortgaged Estate; or

(z) exercise any or all of the remedies available to a secured party under the applicable Uniform Commercial Code, including, without limitation:

(A) either personally or by means of a court appointed receiver, take possession of all or any of the Equipment and Inventory and exclude therefrom the Grantor and all Persons claiming under the Grantor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of the Grantor in respect of the Equipment and Inventory or any part thereof; if the Beneficiary demands or attempts to take possession of the Equipment and Inventory in the exercise of any rights hereunder, the Grantor shall promptly turn over and deliver complete possession thereof to the Beneficiary;

(B) without further notice to or demand upon the Grantor (except those otherwise required hereby or by the Loan Agreement or otherwise required by law), make such payments and do such acts as the Beneficiary may deem necessary to protect its security interest in the Equipment and Inventory, including, without limitation, paying, purchasing, contesting or compromising any encumbrance that is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority paying all expenses incurred in connection therewith;

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(C) require the Grantor to assemble the Equipment and Inventory or any portion thereof, at a place designated by the Beneficiary and reasonably convenient to both parties, and promptly to deliver the Equipment and Inventory to the Beneficiary, or an agent or representative designated by it; the Beneficiary, and its agents and representatives, shall have the right to enter upon the premises and property of the Grantor to exercise the Beneficiary's rights hereunder;

(D) sell, lease or otherwise dispose of the Equipment and Inventory, with or without having the Equipment and Inventory at the place of sale, and upon such terms and in such manner as the Beneficiary may determine (and the Beneficiary may be a purchaser at any such sale); and

(E) unless the Equipment and Inventory are perishable or threaten to decline speedily in value or are of a type customarily sold on a recognized market, the Beneficiary shall give the Grantor at least ten days' prior notice of the time and place of any sale of the Equipment and Inventory or other intended disposition thereof.

(b) If an Event of Default shall have occurred and be continuing, the Beneficiary, to the maximum extent permitted by law, shall be entitled, as a matter of right, to the appointment of a receiver of the Mortgaged Estate, without notice or demand, and without regard to the adequacy of the security for the Loan Obligations or the solvency of the Grantor. The Grantor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of the Beneficiary in case of entry and shall continue as such and exercise all such powers until the date of confirmation of sale of the Mortgaged Estate, unless such receivership is sooner terminated.

(c) If an Event of Default shall have occurred and be continuing, the Grantor shall, to the maximum extent permitted by law, pay monthly in advance to the Beneficiary, or to any receiver appointed at the request of the Beneficiary to collect Rents, the fair and reasonable rental value for the use and occupancy of the Land, the Improvements and the Equipment or of such part thereof as may be actually physically occupied by the Grantor. Upon default in the payment thereof, the Grantor shall

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vacate and surrender possession of such portion of the Land, the Improvements and the Equipment to the Beneficiary, the Deed of Trust Trustee or such receiver, and upon a failure so to do may be evicted by summary proceedings.

(d) In any sale under any provision of this Deed of Trust or pursuant to any judgment or decree of court, and subject to RCW 61.24.100, the Mortgaged Estate, to the maximum extent permitted by law, may be sold in one or more parcels or as an entirety and in such order as the Beneficiary may elect, without regard to the right of the Grantor or any Person claiming under the Grantor to the marshalling of assets. The purchaser at any such sale shall take title to the Mortgaged Estate or the part thereof so sold free and discharged of the estate of the Grantor therein, the bona fide third party purchaser being hereby discharged from all liability to see to the application of the purchase money.

(e) All rights of action under the Loan Documents and this Deed of Trust may be enforced by the Beneficiary without the possession of the Loan Documents and without the production thereof at any trial or other proceeding relative thereto.

Section 5.04. Application of Proceeds.

(a) The proceeds of any sale made either under the power of sale hereby given or under a judgment, order or decree made in any action to foreclose or to enforce this Deed of Trust, or of any monies held by the Beneficiary or the Deed of Trust Trustee hereunder shall, to the maximum extent permitted by law, be applied:

(i) first, to the payment of all costs and expenses of such sale, including the Beneficiary's or the Deed of Trust Trustee's reasonable attorneys' fees and disbursements;

(ii) then, to the payment of all charges, expenses and advances incurred or made by the Beneficiary or the Deed of Trust Trustee in order to protect the lien and estate of this Deed of Trust or the security afforded hereby;

(iii) then to the payment of the Loan Obligations allocated to the Mortgaged Estate:

(1) first, to the interest (other than interest at the Additional Interest Rate or the Revised Interest Rate) due on the Allocated Loan Amount of the Mortgaged Estate; and

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(2) then, to such Allocated Loan Amount;

(iv) then, to the payment in full of the remaining Loan Obligations, in accordance with Section 2.8 of the Loan Agreement;

and after payment in full of all Loan Obligations any surplus remaining shall be paid to the Grantor or to whomsoever may be lawfully entitled to receive the same.

(b) No sale or other disposition of all or any part of the Mortgaged Estate pursuant to Section 5.03 shall be deemed to relieve the Grantor of its obligations under the Loan Agreement or any other Loan Document except to the extent the proceeds thereof are applied to the payment of such obligations. If the proceeds of sale, collection or other realization of or upon the Mortgaged Estate are insufficient to cover the costs and expenses of such realization and the payment in full of the Loan Obligations, the Grantor shall remain liable for any deficiency subject to the provisions of Section 7.14.

Section 5.05. Right to Sue. Subject to the provisions of Section 7.14, the Beneficiary and the Deed of Trust Trustee shall have the right from time to time to sue for any sums required to be paid by the Grantor under the terms of the Note as the same become due, without regard to whether or not the Loan Obligations shall be, or have become, due and without prejudice to the right of the Beneficiary or the Deed of Trust Trustee thereafter to bring any action or proceeding of foreclosure or any other action upon the occurrence of any Event of Default existing at the time such earlier action was commenced as long as no such action is pending to seek satisfaction of the obligations at the time of a non-judicial foreclosure action, except as permitted under RCW 61.24.100.

Section 5.06. Powers of the Beneficiary. The Beneficiary may at any time or from time to time renew or extend this Deed of Trust or (with the agreement of the Grantor) alter or modify the same in any way, or waive any of the terms, covenants or conditions hereof or thereof, in whole or in part, and may release or reconvey any portion of the Mortgaged Estate or any other security, and grant such extensions and indulgences in relation to the Loan Obligations, or release any Person liable therefor as the Beneficiary or the Deed of Trust Trustee may determine without the consent of any junior lienor or encumbrancer, without any obligation to give notice of any kind thereto, without in any manner affecting the priority of the lien and estate of this Deed of Trust on or in any part of the

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Mortgaged Estate, and without affecting the liability of any other Person liable for any of the Loan Obligations.

Section 5.07. Remedies Cumulative.

(a) No right or remedy herein conferred upon or reserved to the Beneficiary or the Deed of Trust Trustee is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy under this Deed of Trust, or under applicable law, whether now or hereafter existing (provided, however, that all such rights and remedies are subject to the provisions of Section 7.14); the failure of the Beneficiary to insist at any time upon the strict observance or performance of any of the provisions of this Deed of Trust or to exercise any right or remedy provided for herein or under applicable law, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof.

(b) Subject to the provisions of Section 7.14 and RCW 61.24.100, the Beneficiary shall be entitled to enforce payment and performance of any of the obligations of the Grantor and to exercise all rights and powers of the Beneficiary under this Deed of Trust or under any Loan Document or any laws now or hereafter in force, notwithstanding that some or all of the Loan Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise; neither the acceptance of this Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect the Beneficiary's right to realize upon or enforce any other security now or hereafter held by the Beneficiary, it being stipulated that the Beneficiary shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by the Beneficiary in such order and manner as the Beneficiary, in its sole discretion, may determine; every power or remedy given by the Loan Agreement, this Deed of Trust or any of the other Loan Documents to the Beneficiary, or to which the Beneficiary is otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by the Beneficiary, and the Beneficiary may pursue inconsistent remedies.

Section 5.08. Waiver of Stay, Extension, Moratorium Laws; Equity of Redemption. To the maximum extent permitted by law, the Grantor shall not at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any applicable present or future stay, extension or moratorium

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law, that may affect observance or performance of the provisions of this Deed of Trust; nor claim, take or insist upon any benefit or advantage of any present or future law providing for the valuation or appraisal of the Mortgaged Estate or any portion thereof prior to any sale or sales thereof that may be made under or by virtue of Section 5.03; and the Grantor, to the extent that it lawfully may, hereby waives all benefit or advantage of any such law or laws. The Grantor, for itself and all who may claim under it, hereby waives, to the maximum extent permitted by applicable law, any and all rights and equities of redemption from sale under the power of sale created hereunder or from sale under any foreclosure of this Deed of Trust and (if an Event of Default shall have occurred) all notice or notices of seizure, and all right to have the Mortgaged Estate marshalled upon any foreclosure hereof. The Beneficiary shall not be obligated to pursue or exhaust its rights or remedies as against any other part of the Mortgaged Estate, and the Grantor hereby waives any right or claim of right to have the Beneficiary or the Deed of Trust Trustee proceed in any particular order.

Section 5.09. Waiver of Homestead. The Grantor hereby waives and renounces all homestead and exemption rights provided for by the Constitution and the laws of the United States and of any state, in and to the Mortgaged Estate as against the collection of the Loan Obligations, or any part thereof.

Section 5.10. Discontinuance of Proceedings. In case the Beneficiary or the Deed of Trust Trustee shall have proceeded to enforce any right, power or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Beneficiary or the Deed of Trust Trustee, then in every such case, the Grantor, the Beneficiary and the Deed of Trust Trustee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of the Beneficiary and the Deed of Trust Trustee shall continue as if no such proceedings had occurred.

ARTICLE VI

The Deed of Trust Trustee

Section 6.01. Acceptance by the Deed of Trust Trustee. The Deed of Trust Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

Deed of Trust

Section 6.02. Compensation. The Deed of Trust Trustee shall accept reasonable compensation from the Beneficiary for any services rendered by it in accordance with the terms hereof.

Section 6.03. Action in Accordance With Instructions. Upon receipt by the Deed of Trust Trustee of instructions from the Beneficiary at any time or from time to time, the Deed of Trust Trustee shall give any notice or direction or exercise any right, remedy or power hereunder or in respect of any part or all of the Mortgaged Estate as shall be specified in such instructions.

Section 6.04. Resignation. The Deed of Trust Trustee may resign at any time upon giving not less than 60 days' prior notice to the Beneficiary, but shall continue to act as trustee until its successor shall have been qualified and appointed pursuant to Section 6.05.

Section 6.05. Successor Trustee. Except as required by applicable law, in the event of the death, removal, resignation or refusal or inability of the Deed of Trust Trustee to act, or for any reason, at any time, the Beneficiary shall have the irrevocable power, with or without cause, without notice of any kind, and without applying to any court, to select and appoint in writing a successor trustee. 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. Such successor shall not be required to give bond for the faithful performance of its duties unless required by the Beneficiary.

ARTICLE VII

Miscellaneous

Section 7.01. Reconveyance by the Beneficiary. Upon payment in full of the Loan Obligations or a payment with respect to the Mortgaged Estate which complies with Section 2.7(a) or 2.11 of the Loan Agreement or results from the operation of Section 2.03(d), the Beneficiary shall release the lien of this Deed of Trust.

Section 7.02. Notices. All notices, demands, consents, requests or other communications that are permitted or required to be given by either party to the other hereunder shall be in writing and given in the manner specified in Section 8.6 of the Loan Agreement; provided that notices to the Deed of Trust

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Trustee shall be addressed to the Deed of Trust Trustee at its offices set forth on page 1.

Section 7.03. Amendments; Waivers; etc. This Deed of Trust cannot be modified, changed or discharged except by an agreement in writing, duly acknowledged in form for recording, signed by the Grantor and the Beneficiary.

Section 7.04. Successors and Assigns. This Deed of Trust applies to, inures to the benefit of and binds each of the parties hereto and their respective successors and assigns and shall run with the Land.

Section 7.05. Captions. The captions or headings at the beginning of each Article and Section hereof are for the convenience of the parties hereto and are not a part of this Deed of Trust.

Section 7.06. Severability. If any term or provision of this Deed of Trust or the application thereof to any Person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Deed of Trust, or the application of such term or provision to Persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Deed of Trust shall be valid and enforceable to the maximum extent permitted by law. If any portion of the Loan Obligations shall for any reason not be secured by a valid and enforceable lien upon any part of the Mortgaged Estate, then any payments made in respect of the Loan Obligations (whether voluntary or under foreclosure or other enforcement action or procedure or otherwise) shall, for purposes of this Deed of Trust (except to the extent otherwise required by applicable law) be deemed to be made (a) first, in respect of the portion of the Loan Obligations not secured by the lien of this Deed of Trust, (b) second, in respect of the portion of the Loan Obligations secured by the lien of this Deed of Trust, but which lien is on less than all of the Mortgaged Estate, and (c) last, to the portion of the Loan Obligations secured by the lien of this Deed of Trust, and which lien is on all of the Mortgaged Estate.

Section 7.07. Indemnity; Expenses. Except for actions by the Grantor against the Beneficiary or the Deed of Trust Trustee where the Grantor is the successful party, the Grantor will pay or reimburse the Beneficiary for all reasonable attorneys' fees, costs and expenses incurred by the Beneficiary in any suit, action, legal proceeding or dispute of any kind in which the Beneficiary is made a party or appears as party.

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plaintiff or defendant, affecting the Loan Obligations, this Deed of Trust or the interest created herein, or the Mortgaged Estate, or any appeal thereof, including, but not limited to, any foreclosure action, any condemnation action involving the Mortgaged Estate or any action to protect the security hereof, any bankruptcy or other insolvency proceeding commenced by or against the Grantor, or any lessee of the Mortgaged Estate (or any part thereof), and any such amounts paid by the Beneficiary shall be added to the Loan Obligations and shall be secured by this Deed of Trust. The Grantor will indemnify, defend and hold the Beneficiary and the Deed of Trust Trustee harmless from and against all claims, damages, and expenses, including reasonable attorneys' fees and court costs, resulting from any action by a third party against the Beneficiary or the Deed of Trust Trustee relating to this Deed of Trust or the interest created herein, or the Mortgaged Estate, including, but not limited to, any action or proceeding by a third party claiming loss, damage or injury to person or property, or any action or proceeding by a third party or a governmental or quasi-governmental entity claiming a violation of or liability under any Legal Requirements, including those applicable Environmental Laws, provided the Grantor shall not be required to indemnify the Beneficiary or the Deed of Trust Trustee for matters caused by (x) the Beneficiary's or the Deed of Trust Trustee's willful misconduct or negligence or (y) actions taken or omitted to be taken by the Beneficiary or the Deed of Trust Trustee after the Beneficiary or the Deed of Trust Trustee acquires title to the Mortgaged Estate through foreclosure, deed in lieu of foreclosure or otherwise. Notwithstanding the foregoing, matters caused by actions taken or omitted to be taken by the Beneficiary or the Deed of Trust Trustee after the Beneficiary or the Deed of Trust Trustee becomes a mortgagee-in-possession or otherwise takes possession or control of the Mortgaged Estate following an Event of Default shall not be covered by the foregoing indemnity if the Beneficiary fails to keep all liability insurance required by this Deed of Trust in effect and, if such insurance is maintained, the indemnification shall not exceed the amount of the insurance maintained and collected. It shall be the Grantor's burden to prove that any matter is caused by the negligence, willful misconduct or actions or failure to act of the Beneficiary or the Deed of Trust Trustee. The indemnification provided by the Grantor in this Section 7.07 is not intended to cover the matters covered by the Grantor's indemnifications described in Sections 2.15 or 5.1(I) of the Loan Agreement and shall not in any way alter, increase or decrease the Grantor's indemnification obligations pursuant to Sections 2.15 or 5.1(I) of the Loan Agreement. The agreements of this

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Section 7.07 shall expressly survive satisfaction of this Deed of Trust and repayment of the Loan Obligations.

Section 7.08. Estoppel Certificates. The Grantor and the Beneficiary each hereby agree at any time and from time to time upon not less than 15 days prior written notice by the Grantor or the Beneficiary to execute, acknowledge and deliver to the party specified in such notice, a statement, in writing, certifying that this Deed of Trust is unmodified and in full force and effect (or if there have been modifications, that the same, as modified, is in full force and effect and stating the modifications hereto), and stating whether or not, to the best knowledge of such certifying party, any Default or Event of Default has occurred and is then continuing, and, if so, specifying each such Default or Event of Default; provided, however, that it shall be a condition precedent to the Beneficiary's obligation to deliver the statement pursuant to this Section 7.08, that the Beneficiary shall have received, together with the Grantor's request for such statement, an Officer's Certificate stating that, to the Grantor's knowledge, no Default or Event of Default exists as of the date of such certificate (or specifying such Default or Event of Default).

Section 7.09. Applicable Law. This Deed of Trust shall be governed by the laws of the State of Washington.

Section 7.10. Limitation of Interest. It is the intent of the Grantor and the Beneficiary in the execution of this Deed of Trust and all other Loan Documents to contract in strict compliance with the usury laws governing the Loan. In furtherance thereof, the Beneficiary and the Grantor stipulate and agree that none of the terms and provisions contained in the Loan Documents shall ever be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate in excess of the Maximum Amount. The Grantor or any endorser or other party now or hereafter becoming liable for the payment of the Note shall never be liable for unearned interest on the Note and shall never be required to pay interest on the Note at a rate in excess of the Maximum Amount, and the provisions of this Section 7.10 shall control over all other provisions of the Note and any other Loan Document which may be in apparent conflict herewith. In the event any holder of the Note shall collect monies that are deemed to constitute interest and that would otherwise increase the effective interest rate on the Note to a rate in excess of the Maximum Amount, all such sums deemed to constitute interest in excess of the Maximum Amount shall be applied to the unpaid principal balance of the Note (without prepayment penalty or premium) and if in excess of such

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balance, shall be immediately returned to the Grantor upon such determination.

Section 7.11. Assignment. The Beneficiary shall have the right to assign this Deed of Trust and the obligations hereunder to any Person in accordance with the Loan Agreement. The parties hereto acknowledge that following the execution and delivery of this Deed of Trust, the Beneficiary expects to sell, transfer and assign this Deed of Trust and certain other Loan Documents to Trustee. All references to "Beneficiary" hereunder shall be deemed to include the assigns of the Beneficiary and the parties hereto acknowledge that actions taken by the Beneficiary hereunder may be taken by Servicer on the Beneficiary's behalf or, after the Securitization Closing Date, on behalf of Trustee.

Section 7.12. Time of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of the Grantor under this Deed of Trust, the Note and all other Loan Documents.

Section 7.13. Waiver of Jury Trial. THE GRANTOR HEREBY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING OUT OF OR IN ANY WAY RELATED TO THIS DEED OF TRUST OR THE LOAN, OR (B) IN ANY WAY CONNECTED WITH OR PERTAINING OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE GRANTOR OR THE BENEFICIARY WITH RESPECT TO THE LOAN DOCUMENTS OR IN CONNECTION WITH THIS DEED OF TRUST OR THE EXERCISE OF EITHER PARTY'S RIGHTS AND REMEDIES UNDER THIS DEED OF TRUST OR OTHERWISE, OR THE CONDUCT OR THE RELATIONSHIP OF THE PARTIES HERETO, IN ALL OF THE FOREGOING CASES WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. THE GRANTOR AGREES THAT THE BENEFICIARY MAY FILE A COPY OF THIS DEED OF TRUST WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT OF THE GRANTOR IRREVOCABLY TO WAIVE ITS RIGHTS TO TRIAL BY JURY AS AN INDUCEMENT OF THE BENEFICIARY TO MAKE THE LOAN, AND THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY DISPUTE OR CONTROVERSY WHATSOEVER (WHETHER OR NOT MODIFIED HEREIN) BETWEEN OR AMONG THE GRANTOR OR THE BENEFICIARY SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

Section 7.14. Exculpation. Notwithstanding anything herein or in any other Loan Document to the contrary, except as otherwise set forth in this Section 7.14 to the contrary, neither the Grantor, HGO, HGI, any Affiliate of the Grantor, HGO or HGI nor any other Person shall have any personal liability under this Deed of Trust or any of the other Loan Documents. Without

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limiting the generality of the foregoing, and notwithstanding anything herein or in any other Loan Document to the contrary, except as otherwise set forth in this Section 7.14 to the contrary, the Beneficiary shall not enforce the liability and obligation of the Grantor to perform and observe the obligations contained in this Deed of Trust, the Note, the Loan Agreement or any of the other Loan Documents executed and delivered by the Grantor by any action or proceeding wherein a money judgment shall be sought against the Grantor or its partners, except that the Beneficiary may bring a foreclosure action, action for specific performance or other appropriate action or proceeding (including, without limitation, to obtain a deficiency judgment) solely for the purpose of enabling the Beneficiary to realize upon (i) the Grantor's interest in the Mortgaged Property, (ii) the Rents and Accounts arising from the Individual Properties to the extent received by the Grantor or a Manager after the occurrence of an Event of Default and not deposited in the Property Collection Account pursuant to Section 2.12(a) of the Loan Agreement (all such Rents and Accounts, the "Recourse Distributions") and (iii) any other collateral given to the Beneficiary under the Loan Documents ((i), (ii) and (iii), collectively, the "Default Collateral"); provided, however, that any judgment in any such action or proceeding shall be enforceable against the Grantor only to the extent of any such Default Collateral. The provisions of this Section 7.14 shall not, however, (a) impair the validity of the Indebtedness evidenced by the Note or in any way affect or impair the Liens of this Deed of Trust or any of the other Loan Documents or the right of the Beneficiary to foreclose this Deed of Trust or the other Mortgages following an Event of Default; (b) impair the right of the Beneficiary to name the Grantor as a party defendant in any action or suit for judicial foreclosure and sale under this Deed of Trust or any of the other Mortgages; (c) affect the validity or enforceability of the Note, this Deed of Trust or the other Loan Documents; (d) impair the right of the Beneficiary to obtain the appointment of a receiver; (e) impair the enforcement of the Assignments of Leases, the Assignments of Agreements, the Pledge and Security Agreement or the Manager's Subordinations (subject to the nonrecourse provisions thereof); (f) impair the right of the Beneficiary to bring suit for actual damages, losses and costs resulting from fraud or intentional misrepresentation by the Grantor or any of its Affiliates (including HGI, HGO and Realty) in connection with this Deed of Trust, the Note, the other Mortgages, the Loan Agreement or the other Loan Documents; (g) impair the right of the Beneficiary to obtain the Recourse Distributions received by the Grantor, including, without limitation, the right to proceed against the Grantor's partners to the extent any such Recourse Distributions have actually

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theretofore been distributed to the Grantor's partners; (h) impair the right of the Beneficiary to bring suit with respect to the Grantor's misappropriation of security deposits or Rents collected more than one month in advance in violation of the terms of this Deed of Trust or the other Loan Documents; (i) impair the right of the Beneficiary to obtain Insurance Proceeds or Condemnation Proceeds due to the Beneficiary pursuant to this Deed of Trust and the other Mortgages; (j) impair the right of the Beneficiary to enforce the provisions of Sections 4.1(P) or 5.1(D)-(I) of the Loan Agreement even after repayment in full of the Indebtedness; (k) prevent or in any way hinder the Beneficiary from exercising, or constitute a defense, or counterclaim, or other basis for relief in respect of the exercise of, any other remedy against any or all of the Collateral as provided in the Loan Documents; (l) impair the right of the Beneficiary to bring suit with respect to any misapplication of any funds in violation of the terms of this Deed of Trust or the other Loan Documents; or (m) impair the right of the Beneficiary to sue for, seek or demand a deficiency judgment against the Grantor solely for the purpose of foreclosing the Mortgaged Property or any part thereof, or realizing upon the Default Collateral; provided, however, that any such deficiency judgment referred to in this clause (m) shall be enforceable against the Grantor only to the extent of any of the Default Collateral. The provisions of this Section 7.14 shall be inapplicable to the Grantor if any petition for bankruptcy, reorganization or arrangement pursuant to federal or state law shall be filed by the Grantor (or by HGI, HGO, Realty or another Affiliate of the Grantor with respect to the Grantor), or if the Grantor shall institute any proceeding for the dissolution or liquidation of the Grantor, or if the Grantor shall make an assignment for the benefit of creditors, in which event the Beneficiary shall have recourse against all of the assets of the Grantor and the interests in the Grantor owned by, and the Recourse Distributions received by, the Grantor's partners (but excluding the other assets of the Grantor's partners to the extent the Beneficiary would not have had recourse against such assets other than in accordance with the provisions of this Section 7.14). Notwithstanding the foregoing, in the event an Individual Property is released from the lien created by the Related Mortgage, the Grantor shall be released in all respects from any further liability with respect to the Loan other than any further indemnity liability for certain kinds of environmental matters arising under Sections 4.1(P) or 5.1(D)-(I), inclusive, of the Loan Agreement as the same applies to such Individual Property.

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Section 7.15. Exhibits. The information set forth on the cover, heading and recitals hereof, and the Exhibits attached hereto, are hereby incorporated herein as a part of this Deed of Trust with the same effect as if set forth in the body hereof.

Section 7.16. Non-Agricultural. The Mortgaged Estate is not used principally or primarily for agricultural or farming purposes.

Section 7.17. No Oral Agreements. Oral agreements or oral commitments to loan money, extend credit, or to forbear from enforcing repayment of a debt are not enforceable under Washington law.

IN WITNESS WHEREOF, this Deed of Trust has been duly executed by the Grantor as of the day and year first above written.

FIRST HORIZON GROUP LIMITED
PARTNERSHIP, a Delaware limited
partnership

By: First HGI, Inc., a Delaware
corporation, General Partner

By: 
Robert L. Stout
Vice President

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STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

THIS IS TO CERTIFY that on this 27th day of February, 1996 before me, a Notary Public in and for the State of New York, duly commissioned and sworn, came Robert L. Stout, Vice President of First HGI, Inc., a Delaware corporation, personally known or having presented satisfactory evidence to be the general partner of First Horizon Group Limited Partnership, a Delaware limited partnership, the limited partnership that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act of and deed of said limited partnership for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal the day and year in this certificate first above written.

Isabella M. Squicciarini
Print Name: Isabella M. Squicciarini
Notary Public in and for the
State of New York, residing
at Suffolk County
Expiration Date: 0

ISABELLA M. SQUICCIARINI
Notary Public, State of New York
No. 01SQ5050004
Qualified in Suffolk County
Certificate Filed in Suffolk County
Commission Expires Sept. 25, 1997

EXHIBIT " A " LEGAL DESCRIPTION

WASHINGTON

PARCEL A:

Lots 1, 2, and 3, CITY OF BURLINGTON SHORT PLAT NO. 1-92 as approved July 18, 1989, and recorded July 27, 1992, in Volume 10 of Short Plats, page 105, under Auditor's File No. 9207270058, records of Skagit County, Washington; being a portion of the Northeast Quarter of the Northeast Quarter of Section 7, Township 34 North, Range 4 East of the Willamette Meridian.

PARCEL B:

Parcel B, CITY OF BURLINGTON SHORT PLAT NO. B-1-92 as approved June 2, 1992, and recorded June 11, 1992, in Volume 10 of Short Plats, pages 88 and 89, under Auditor's File No. 9206110001, records of Skagit County, Washington; being a portion of the Northeast Quarter of the Northeast Quarter of Section 7, Township 34 North, Range 4 East of the Willamette Meridian.

PARCEL C:

Parcel A, CITY OF BURLINGTON SHORT PLAT NO. B-1-92 as approved June 2, 1992, and recorded June 11, 1992, in Volume 10 of Short Plats, pages 88 and 89, under Auditor's File No. 9206110001, records of Skagit County, Washington; being a portion of the Northeast Quarter of the Northeast Quarter of Section 7, Township 34 North, Range 4 East of the Willamette Meridian.

PARCEL D:

An easement for drainage, as acquired by document recorded under Auditor's File No. 8811230046, records of Skagit County, Washington, over and across the following described property:

The West 20 feet of Lot 3, CITY OF BURLINGTON SHORT PLAT NO. 37-76 as approved August 2, 1976, and recorded August 5, 1976, in Volume 1 of Short Plats, page 156, under Auditor's File No. 840316, records of Skagit County, Washington; being a portion of the Southeast Quarter of the Southeast Quarter of Section 6, Township 34 North, Range 4 East of the Willamette Meridian.

PARCEL E:

An easement acquired by instruments recorded November 23, 1988, under Auditor's File No. 8811230048, records of Skagit County, Washington, for ingress, egress, and utilities, over, under, and across a 36.00-foot strip of land lying 18.00 feet each side of the following described centerline:

Commencing at the Northeast corner of Section 7, Township 34 North, Range 4 East of the Willamette Meridian;
thence South 01°34'38" East, along the East line of said Section 7 a distance of 13.73 feet;
thence South 86°59'04" West, 40.01 feet to the true point of beginning;
thence continuing South 86°59'04" West, 56.99 feet to the beginning of a curve to the left having a radius of 170.00 feet;
thence Southwesterly along said curve through a central angle of 66°32'00", an arc distance of 197.41 feet;
thence South 20°27'04" West, 124.00 feet to the beginning of a curve to the right, having a radius of 273.00 feet;
thence Southwesterly along said curve through a central angle of 71°07'06", an arc distance of 338.86 feet;
thence North 88°25'50" West, 150.00 feet to the terminus point of said centerline. (Said easement being appurtenant to Parcels B and C).

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PARCEL E:

An easement for ingress, egress, and utilities over, under, and across that area delineated as "Access and Utility Easement" on the Easterly portion of Parcel B of City of Burlington Short Plat No. B-1-92 as approved June 2, 1992, and recorded June 11, 1992, in Volume 10 of Short Plats, pages 88 and 89, under Auditor's File No. 9206110001, records of Skagit County, Washington. (Said easement is appurtenant to Parcel C).

ALL situated in Skagit County, Washington.

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EXHIBIT B

PERMITTED ENCUMBRANCES

1.
 - a. This Deed of Trust;
 - b. Assignment of Leases in favor of the Beneficiary; and
 - c. all other recorded Loan Documents.
2. All liens, encumbrances and other matters disclosed in Chicago Title Insurance Company's Commitment for Title Insurance, pro forma policy no. SB-8558 dated the date of recordation of this Deed of Trust.
3. Liens, if any, for Impositions imposed by any Governmental Authority not yet due or delinquent or being contested in good faith and by appropriate proceedings in accordance with Section 2.06(b) of the Deed of Trust or other Liens being so contested.
4. Any mechanics' and materialmen's Liens deleted from the exceptions to, or affirmatively insured against collection with respect to, the Facility under the Title Insurance Policy covering the Facility, any mechanics' and materialmen's Liens relating to work done by a tenant and any mechanics' and materialmen's Liens being contested in good faith and by appropriate proceedings in accordance with Section 2.06(b) of the Deed of Trust.
5. Without limiting the foregoing, any and all governmental, public utility and private restrictions, covenants, reservations, easements, licenses or other agreements of an immaterial nature which may hereafter be granted by the Grantor and which do not materially and adversely affect (x) the marketability of title to the Facility, (y) the fair market value thereof, or (z) the use or operation thereof as of the Closing Date.
6. Deposits or pledges to secure obligations under worker's compensation, social security or similar laws, or under unemployment insurance, made in the ordinary course of the Grantor's business.
7. Rights of existing and future tenants, as tenants only pursuant to Leases.

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EXHIBIT C

VARIABLE RATE DETERMINATION

From the date of this Deed of Trust to but not including March 11, 2006, interest shall accrue at the rate of 8.574% per annum. Commencing on March 11, 2006, interest shall accrue at the per annum rate equal to 7% plus the greater of (i) 8.574% and (ii) the Treasury Rate on March 11, 2006.

"Maturity Date" means March 11, 2021.

"Treasury Rate" means the yield calculated by linear interpolation (rounded to three decimal places) of the yields of United States Treasury Constant Maturities with terms (one longer and one shorter) most nearly approximating that of noncallable United States Treasury Obligations having maturities as close as possible to the Maturity Date, as determined by the Beneficiary on Interest Rates under the heading U.S. Government Security/Treasury Constant Maturities, or other recognized source of financial market information selected by the Beneficiary.