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After Recording Return to:

William J. Morris
1325 Fourth Avenue, Suite 940
Seattle, WA 98101

087729

LAND TITLE COMPANY OF SKAGIT COUNTY

9901270043

SKAGIT COUNTY

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RECORDED _____ FILED _____
REQUEST OF _____

Document Title or Titles:

Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing

Reference Nos. of Documents Assigned or Released:

Name of Grantor:

Larry Gordon and Virginia Gordon, husband and wife
Valley Freightliner, Inc.

Name of Grantee:

Mercedes-Benz Credit Corporation
Land Title Company of Skagit County

Legal Description: Lot 9, Hilde Commercial Facility Binding Site Plan No. 97-0361, approved November 25, 1998, recorded November 25, 1998 in Volume 13 of Short Plats, pages 186 and 187, under auditor's File No. 9811250022 and being a portion of the Northwest 1/4 of the Southwest 1/4, Section 32, Township 34 North, Range 4 East, W.M.

Situate in the County of Skagit, State of Washington

Assessor's Property Tax Parcel Number or Account Number:

340432-3-005-0007; 340432-3-020-0008; 34-432-3-004-0008

9901270043

SK 1994 PG 0253

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

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Deed of Trust") is dated for reference purposes the 27th day of January, 1999, by Larry Gordon and Virginia Gordon, husband and wife and Valley Freightliner, Inc., a Washington corporation ("Trustor"), whose address is 277 Stewart Road SW, Pacific, WA 98047, to Land Title Company of Skagit County, ("Trustee"), whose address is 601 South Second Street, P.O. Box 1225, Mount Vernon, WA 98273, for the benefit of Mercedes-Benz Credit Corporation ("Beneficiary"), a Delaware corporation, with an office at 1011 Warrenville Road, Lisle, IL 60532.

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, the real property located in the County of Skagit, State of Washington, described in Exhibit A attached hereto and by this reference incorporated herein (the "Property");

TOGETHER WITH, all rents, issues, profits, royalties, income and other benefits derived from the Property (collectively the "Rents"), subject to the right, power and authority hereinafter given to Trustor to collect and apply such rents;

TOGETHER WITH, all right, title and interest of Trustor in and to all leases or subleases covering the Property or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Trustor thereunder, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature;

TOGETHER WITH, all right, title and interest of Trustor in and to all options to purchase or lease the Property or any portion thereof or interest therein, if any, and any greater estate in the Property owned or hereafter acquired;

TOGETHER WITH, the right in case of foreclosure hereunder of the encumbered property for Beneficiary to take and use the name by which the buildings and all other improvements situated on the Property are commonly known and the right to manage and operate the said buildings under any such name and variants thereof;

TOGETHER WITH, all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto, and all water rights and shares of stock evidencing the same;

TOGETHER WITH, all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjoining the Property, and any and all sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Property;

TOGETHER WITH, any and all buildings and improvements and all landscaping now or hereafter erected thereon, including, but not limited to, the fixtures, attachments, appliances, equipment, machinery, and other articles attached to said buildings and improvements (the "Improvements");

TOGETHER WITH, all right, title and interest of Trustor in all equipment acquired with funds provided by Beneficiary, and in all fixtures, and other articles of property now or hereafter attached to, or used or adapted for use in the operation of, or in any way related to or arising out of, the Property or improvements (whether such items be leased, be owned absolutely or subject to any title retaining or security instrument, or be otherwise used or possessed), including without limitation all heating, cooling, air-conditioning, ventilating, refrigerating, plumbing, generating, power, lighting, laundry, maintenance, incinerating, lifting, cleaning, fire prevention and extinguishing, security and access control, cooking, gas, electric and communication fixtures, equipment and apparatus, all engines, motors, conduits, pipes, pumps, tanks, ducts, compressors, boilers, water heaters and furnaces, all ranges, stoves, disposers, refrigerators and other appliances, all escalators and elevators, all cabinets, partitions, mantels, mirrors, window shades, blinds, screens, awnings, storm doors, windows and sash, all carpeting, underpadding and draperies, all furnishings of public spaces, halls and lobbies, and all shrubbery and plants, bridge crane and parts mezzanine;

TOGETHER WITH, all materials, supplies and other goods, collectively referred to as "materials," now owned or hereafter acquired, wherever located, whether in the possession of Trustor, warehouseman, bailee or any other person, purchased for use in the construction or furnishing of improvements on the Property, together with any documents covering such materials, all contract rights and general intangibles relating to such materials and proceeds of such materials, documents, contract rights and general intangibles;

TOGETHER WITH, all site plans, plats, architectural plans, specifications, work drawings, surveys, engineering reports, test borings, market surveys and other work products relating to the Property;

TOGETHER WITH, all present and future contracts and policies of insurance which insure the Property or any building, structures or improvements thereon, or any such fixtures or personal property, against casualties and theft, and all monies and proceeds and rights thereto which may be or become payable by virtue of any such insurance contracts or policies;

TOGETHER WITH, all governmental permits relating to the Property;

TOGETHER WITH, all water stock relating to the Property, all shares of stock or other evidence of ownership of any part of the Property that is owned by Trustor in common with others, and all documents of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Property;

TOGETHER WITH, all the estate, interest, right, title, other claim or demand, including claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire in the Property, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Trust Estate (as defined below), including without limitation any awards resulting from a change of grade of streets and awards for severance damages.

All of the foregoing which is not real property or deemed real property is herein called "Personal Property." The entire estate, property and interest hereby conveyed to Trustee may be referred to herein as the "Trust Estate".

FOR THE PURPOSE OF SECURING:

a. Payment of indebtedness by Trustor in the total principal amount of SEVEN HUNDRED FORTY ONE THOUSAND, ONE HUNDRED FIFTEEN and NO/100 DOLLARS (\$741,115.00) with interest thereon, evidenced by that certain promissory note of even date herewith (the "Note") executed by Trustor, which has been delivered to and is payable to the order of Beneficiary, and which by this reference is hereby made a part hereof, and any and all modifications, extensions and renewals and substitutions thereof.

b. Payment of all sums advanced by Beneficiary to protect the Trust Estate, with interest thereon at a rate equal to the Default Rate set forth in the Note (herein also called the "Default Rate").

c. Payment of all other sums, with interest thereon, which may hereafter be loaned to Trustor, or its successors or assigns, by Beneficiary, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

d. Performance by Trustor of all obligations and agreements contained herein.

This Deed of Trust, the Note and any other instrument given to evidence or further secure the payment and performance of any obligations secured hereby may hereafter be referred to as the "Loan Instruments" or "Loan Documents". Such terms shall not include the Environmental Indemnity Agreement of even date herewith.

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

ARTICLE I

COVENANTS AND AGREEMENTS OF TRUSTOR

Trustor hereby covenants and agrees:

1.01 Payment of Secured Obligations. To pay when due the principal of, and the interest on, the indebtedness evidenced by the Note, all charges, fees and all other sums as provided in the Loan Instruments, and the principal of, and interest on, any future advances secured by this Deed of Trust.

1.02 Maintenance; Repair; Alterations. To keep the Trust Estate in good condition and repair, ordinary wear and tear excepted; without the prior written consent of Beneficiary, not to remove, demolish or substantially alter (except such alterations as may be required by laws, ordinances or regulations) any of the Improvements; to complete promptly and in good and workmanlike manner any building or other improvement which may be constructed on the Property and promptly restore in like manner any Improvement which may be damaged or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefor; to materially comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Trust Estate or any part thereof or requiring any alterations or improvements; not to commit or permit any waste or deterioration of the Trust Estate, to keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair; not to commit, or knowingly suffer or permit any act to

be done in or upon the Trust Estate in violation of any law, ordinance or regulation; not to change the use of the Trust Estate without Beneficiary's prior written consent. Notwithstanding the foregoing, Trustor may contest any liens filed for labor performed and materials furnished so long as Trustor delivers to Beneficiary a bond or other security satisfactory to Beneficiary to insure that the lien and all costs will be paid and so long as Trustor diligently and continuously prosecutes said contest.

1.03 Required Insurance. To at all times provide, maintain and keep in force the following policies of insurance:

(a) Insurance against loss or damage to the Improvements by fire and any of the risks covered by insurance of the type now known as "all risk coverage" in an amount not less than the full replacement cost of the Improvements, including cost of debris removal (exclusive of the cost of excavations, foundations, and footings below the lowest basement floor). The policies of insurance carried in accordance with this subparagraph (a) shall contain a "Replacement Cost Endorsement" and "Agreed Amount Endorsement" sufficient to prevent Trustor from becoming a co-insurer.

(b) Commercial general liability insurance (including coverage for elevators and escalators, if any, on the Trust Estate and, if any construction of new improvements occurs after execution of this Deed of Trust, Trustor shall cause its contractor to carry completed operations coverage for two years after construction of the Improvements has been completed) on an "occurrence basis" against claims for "personal injury" including, without limitation, bodily injury, death or property damage occurring on, in or about the Trust Estate, the adjoining streets, sidewalks and passageways, and protecting against any liability incident to the use of or resulting from any accident occurring in or about the Trust Estate, including coverage for those hazards generally known in the industry as explosion, collapse and underground property damage ("XCU"), such insurance to afford immediate minimum protection to a limit of not less than one million five hundred thousand dollars (\$1,500,000) per occurrence;

(c) During the course of any construction or repair of improvements on the Property, workmen's compensation insurance (including employer's liability insurance, if requested by Beneficiary) for all employees of Trustor engaged on or with respect to the Trust Estate in such amount as is satisfactory to Beneficiary, or, if such limits are established by law, in such amounts;

(d) Insurance against loss or damage to the Personal Property by fire and other risks covered by insurance of the type now known as "fire and extended coverage;" and

(e) Such other insurance, and in such amounts, as may from time to time be required by Beneficiary against the same or other hazards.

All policies of insurance required by the terms of this Deed of Trust shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act or negligence of Trustor which might otherwise result in forfeiture of said insurance and the further agreement of the insurer waiving all rights of set off, counterclaim or deductions against Trustor and shall contain the Standard Mortgagee's Loss Payable Endorsement Form 438BFU.

1.04 Delivery of Policies; Payment of Premiums. That all policies of insurance shall be issued by companies and in amounts in each company satisfactory to Beneficiary. All policies of insurance shall have attached thereto a lender's loss payable endorsement for the benefit of Beneficiary in form satisfactory to Beneficiary. Trustor shall furnish Beneficiary with an original or a certified copy of all policies of required insurance. If Beneficiary consents to Trustor providing any of the required insurance through blanket policies carried Trustor and covering more than one location, then Trustor shall furnish Beneficiary with a certificate of insurance for each such policy setting forth the coverage, the limits of liability as to the Trust Estate, the name of the carrier, the policy number, and the expiration date. At least thirty (30) days prior to the expiration of each such policy, Trustor shall furnish Beneficiary with evidence satisfactory to Beneficiary of the payment of premium and the reissuance of a policy continuing insurance in force as required by this Deed of Trust. All such policies shall contain a Standard Mortgagee's Loss Payable Endorsement Form 438BFU providing for at least thirty (30) days prior written notice to Beneficiary. In the event Trustor fails to provide, maintain, keep in force or deliver and furnish to Beneficiary the policies of insurance required by this Deed of Trust, Beneficiary may procure such insurance or single-interest insurance for such risks covering Beneficiary's interest, and Trustor will pay all premiums thereon promptly upon demand by Beneficiary, and until such payment is made by Trustor the amount of all such premiums together with interest thereon at the Default Rate shall be secured by this Deed of Trust. At the request of Beneficiary after the occurrence of an Event of Default, Trustor shall deposit with Beneficiary, in monthly installments, an amount equal to one-twelfth (1/12th) of the estimated aggregate annual insurance premiums on all policies of insurance required by this Deed of Trust in order to accumulate with Beneficiary sufficient funds to pay such premiums thirty (30) days prior to their due date. Trustor further agrees, upon Beneficiary's written request after occurrence of an Event of Default, to cause all bills, statements or other documents relating to the foregoing insurance premiums to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Trustor has deposited sufficient funds with Beneficiary pursuant to this Section 1.04, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time and for

any reason the funds deposited with Beneficiary are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall notify Trustor in writing and Trustor shall immediately deposit an amount equal to such deficiency with Beneficiary. Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section 1.04; provided, however, Beneficiary shall continue to have an obligation to account for such funds. Beneficiary may commingle said reserve with its own funds and Trustor shall be entitled to no interest thereon.

1.05 Insurance Proceeds. That after the happening of any casualty to the Trust Estate or any part thereof, Trustor shall give prompt written notice thereof to Beneficiary.

(a) In the event of any damage or destruction of the Improvements, Beneficiary shall have the option in its sole discretion of applying all or part of the insurance proceeds (i) to any indebtedness secured hereby and in such order as Beneficiary may determine, or (ii) to the restoration of the Improvements or (iii) to Trustor.

(b) In the event of such loss or damage, all proceeds of insurance shall be payable to Beneficiary, and Trustor hereby authorizes and directs any affected insurance company to make payment of such proceeds directly to Beneficiary. Beneficiary is hereby authorized and empowered by Trustor to settle, adjust or compromise any claims for loss, damage or destruction under any policy or policies of insurance.

(c) Except to the extent that insurance proceeds are received by Beneficiary and applied to the indebtedness secured hereby, nothing herein contained shall be deemed to excuse Trustor from repairing or maintaining the Trust Estate as provided in Section 1.02 hereof or restoring all damage or destruction to the Trust Estate, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in amount, and the application or release by Beneficiary of any insurance proceeds shall not cure or waive any Event of Default (as defined herein) or notice of default under this Deed of Trust or invalidate any act done pursuant to such notice.

(d) No prepayment premium shall be applicable to any insurance proceeds received by Beneficiary under this Section 1.05.

1.06 Assignment of Policies Upon Foreclosure. In the event of foreclosure of this Deed of Trust or other transfer of title or assignment of the Trust Estate in

extinguishment of the debt secured hereby, all right, title and interest of Trustor in and to all policies of insurance required by this Deed of Trust shall inure to the benefit of and pass to the successor in interest to Trustor or the purchaser or grantee of the Trust Estate.

1.07 Indemnification; Attorneys' Fees; Subrogation; Waiver of Offset.

(a) If Beneficiary, through no fault or misconduct of Beneficiary, is made a party defendant to any litigation concerning this Deed of Trust or the Trust Estate or any part thereof or interest therein, or the occupancy thereof by Trustor, then Trustor shall indemnify, defend and hold Beneficiary harmless from all liability by reason of said litigation, including reasonable attorneys' fees and expenses incurred by Beneficiary in any such litigation, whether or not any such litigation is prosecuted to judgment. Trustor promises to pay all reasonable costs, expenses and attorneys' fees incurred by Beneficiary in the exercise of any remedy (with or without litigation), in any proceeding for the collection of the debt secured by this Deed of Trust, in any trustee's sale or foreclosure of this Deed of Trust or the realization upon any other security securing the Note, in protecting or sustaining the lien or priority of this Deed of Trust or said other security, or in any litigation or controversy arising from or connected with the Note or this Deed of Trust or other security for the Note. Said proceedings include, without limitation, any probate, bankruptcy, receivership, injunction, arbitration, mediation or other proceeding, or any appeal from or petition for review of any of the foregoing, in which Beneficiary prevails. Trustor shall also pay all of Beneficiary's costs and reasonable attorneys' fees incurred in connection with any demand, work-out, settlement, compromise or other activity in which Beneficiary engages to collect any portion of the debt not paid when due or as a result of any other default of Trustor. If a judgment is obtained thereon which includes an award of attorneys' fees, such attorneys' fees, costs and expenses shall be in such amount as the court shall deem reasonable, which judgment shall bear interest at the Default Rate as set forth in the Note from the date it is rendered to and including the date of payment to Beneficiary.

(b) Trustor waives any and all right to claim or recover against Beneficiary, its officers, employees, agents and representatives, for loss of or damage to Trustor, the Trust Estate, Trustor's property or the property of others under Trustor's control from any cause insured against or required to be insured against by the provisions of this Deed of Trust.

(c) All sums payable by Trustor hereunder shall be paid without notice, demand, counterclaim, set-off, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Trustor hereunder shall in no way be released, discharged or otherwise affected (except as

expressly provided herein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the Trust Estate or any part thereof; (ii) any restriction or prevention of or interference with any use of the Trust Estate or any part thereof; (iii) any title defect or encumbrance or any eviction from the Property or the Improvements or any part thereof by title paramount or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Beneficiary or Trustor or any action taken with respect to this Deed of Trust by any trustee or receiver of Beneficiary or Trustor, or by any court, in any such proceeding; (v) any claim which Trustor has or might have against Beneficiary; (vi) any Event of Default or failure on the part of Beneficiary to perform or comply with any of the terms hereof or of any other agreement with Trustor; or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing; whether or not Trustor shall have notice or knowledge of any of the foregoing. Nothing contained herein shall in any way prevent Trustor from asserting any claim that it may have against Beneficiary in an independent action. Except as expressly provided herein, Trustor waives all rights now or hereafter conferred by statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable to Trustor.

1.08 Taxes and Impositions.

(a) Trustor agrees to pay prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, including without limitation non-governmental levies or assessments such as maintenance charges, owner association dues or charges or fees, levies or charges resulting from covenants, conditions and restrictions affecting the Trust Estate, which are assessed or imposed upon the Trust Estate, or become due and payable, and which create, may create or appear to create a lien upon the Trust Estate, or any part thereof, or upon any Personal Property, equipment or other facility used in the operation or maintenance thereof (all of which taxes, assessments and other governmental and non-governmental charges of like nature are hereinafter referred to as "Impositions"); provided, however, that if, by law, any such Imposition is payable, or may at the option of the taxpayer be paid, in installments, Trustor may pay the same together with any accrued interest on the unpaid balance of such Imposition in installments as the same become due and before any fine, penalty, interest or cost may be added thereto for the nonpayment of any such installment and interest.

(b) If at any time after the date hereof there shall be assessed or imposed (i) a tax or assessment on the Trust Estate in lieu of or in addition to the Impositions payable by Trustor pursuant to subparagraph (a) hereof, or (ii) a license fee, tax or assessment imposed on Beneficiary and measured by or based in whole or in part upon the amount of the outstanding obligations secured hereby, then all such taxes,

assessments or fees shall be deemed to be included within the term "Imposition" as defined in subparagraph (a) hereof, and Trustor shall pay and discharge the same as herein provided with respect to the payment of Impositions, and if Trustor cannot or does not pay and discharge the same, then all obligations secured hereby, together with all accrued interest thereon, shall immediately become due and payable. Anything to the contrary herein notwithstanding, Trustor shall have no obligation to pay any franchise, estate, inheritance, income, excess profits or similar tax levied on Beneficiary or on the obligations secured hereby.

(c) Subject to the provisions of subparagraph (d) of this Section 1.08, upon Beneficiary's written request, Trustor covenants to furnish Beneficiary within thirty (30) days after the date upon which any such Imposition is due and payable by Trustor, official receipts of the appropriate taxing authority, or other proof satisfactory to Beneficiary, evidencing the payments thereof.

(d) Trustor shall have the right before any delinquency occurs to contest or object to the amount or validity of any such Imposition by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying or extending Trustor's covenant to pay any such Imposition at the time and in the manner provided in this Section 1.08, unless Trustor has given prior written notice to Beneficiary of Trustor's intent to so contest or object to an Imposition, and unless, at Beneficiary's sole option, (i) Trustor shall demonstrate to Beneficiary's satisfaction that the legal proceedings shall conclusively operate to prevent the sale of the Trust Estate, or any part thereof, to satisfy such Imposition prior to final determination of such proceedings; or (ii) Trustor shall furnish a good and sufficient bond or surety as requested by and satisfactory to Beneficiary; or (iii) Trustor shall have provided a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of such sale.

(e) At the request of Beneficiary after the occurrence of an Event of Default, Trustor shall pay to Beneficiary, on the day monthly installments of principal and interest are payable under the Note, until the Note is paid in full an amount equal to one-twelfth (1/12th) of the annual Impositions estimated by Beneficiary to pay the Impositions next due on the Trust Estate thirty (30) days prior to their due date. In such event Trustor further agrees to cause all bills, statements or other documents relating to Impositions to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Trustor has deposited sufficient funds with Beneficiary pursuant to this Section 1.08, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time and for any reason the funds deposited with Beneficiary are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall notify Trustor and Trustor shall immediately deposit an amount equal to such deficiency with Beneficiary.

Notwithstanding the foregoing, nothing contained herein shall cause Beneficiary to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary pursuant to this Section 1.08; provided, however, Beneficiary shall continue to have an obligation to account for such funds. Beneficiary shall not be obligated to pay or allow any interest on any sums held by Beneficiary pending disbursement or application hereunder, and Beneficiary may impound or reserve for future payment of Impositions such portion of such payments as Beneficiary may in its absolute discretion deem proper. Should Trustor fail to deposit with Beneficiary (exclusive of that portion of said payments which has been applied by Beneficiary on the principal of or interest on the indebtedness secured by the Loan Instruments) sums sufficient to fully pay such Impositions before delinquency thereof, Beneficiary may, at Beneficiary's election after prior written notice to Trustor, but without any obligation so to do, advance any amounts required to make up the deficiency, which advances, if any, shall be secured hereby and shall be repayable to Beneficiary as herein elsewhere provided, or at the option of Beneficiary the latter may, without making any advance whatever, apply any sums held by it upon any obligation of the Trustor secured hereby. Should any Event of Default occur or exist, Beneficiary may, at any time at Beneficiary's option, apply any sums or amounts in its hands received pursuant hereto, or as rents or income of the Trust Estate or otherwise, upon any indebtedness or obligation of the Trustor secured hereby in such manner and order as Beneficiary may elect. The receipt, use or application of any such sums paid by Trustor to Beneficiary hereunder shall not be construed to affect the maturity of any indebtedness secured by this Deed of Trust or any of the rights or powers of Beneficiary or Trustee under the terms of the Loan Instruments or any of the obligations of Trustor and/or any guarantor under any of the Loan Instruments.

(f) Trustor covenants and agrees, to the extent allowed by law, not to suffer, permit or initiate the joint assessment of the real and personal property, or any other procedure whereby the lien of the real property taxes and the lien of the personal property taxes shall be assessed, levied or charged to the Trust Estate as a single lien.

(g) If requested by Beneficiary, Trustor shall cause to be furnished to Beneficiary a tax reporting service covering the Trust Estate of the type, duration and with a company satisfactory to Beneficiary.

1.09 Utilities.

(a) To pay when due all utility charges which are incurred by Trustor for the benefit of the Trust Estate or which may become a charge or lien against the Trust Estate for gas, electricity, water or sewer services furnished to the Trust Estate and all other assessments or charges of a similar nature, whether public or private, affecting the

Trust Estate or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

(b) Trustor shall have the right, before any delinquency occurs, to contest or object to the amount or validity of any such tax, assessment, or charge, by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying or extending Trustor's covenant to pay any such tax, assessment, or charge, at the time and in the manner provided in this Section 1.09, unless Trustor has given prior written notice to Beneficiary of Trustor's intent to so contest or object to a tax, assessment, or charge, and unless, at Beneficiary's sole option, (i) Trustor shall demonstrate to Beneficiary's satisfaction that the legal proceedings shall conclusively operate to prevent the sale of the Trust Estate, or any part thereof, to satisfy such tax, assessment or charge, prior to final determination of such proceedings; or (ii) Trustor shall furnish a good and sufficient bond or surety as requested by and satisfactory to Beneficiary; or (iii) Trustor shall have provided a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of such sale.

1.10 Actions Affecting Trust Estate. To appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorneys' fees, in any such action or proceeding in which Beneficiary or Trustee may appear.

1.11 Actions by Trustee and/or Beneficiary to Preserve Trust Estate. That should Trustor fail to make any payment or to do any act as and in the manner provided in any of the Loan Instruments, Beneficiary and/or Trustee, each in its own discretion, without obligation so to do and upon written notice to Trustor and without releasing Trustor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. In connection therewith (without limiting their general powers), Beneficiary and/or Trustee shall have and are hereby given the right, but not the obligation, (i) to make additions, alterations, repairs and improvements to the Trust Estate which they or either of them may consider necessary or proper to keep the Trust Estate in good condition and repair and in compliance with all laws, ordinances, rules and regulations; (ii) to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Beneficiary or Trustee; (iii) to pay, purchase, contest or compromise any encumbrance, claim, charge, lien or debt which in the judgment of either may affect or appears to affect the security of this Deed of Trust or be prior or superior hereto; and (iv) in exercising such powers, to pay necessary expenses, including employment of counsel or other necessary or desirable consultants. Trustor shall, immediately upon demand therefor by Beneficiary, pay all costs and expenses incurred by Beneficiary in

connection with the exercise by Beneficiary of the foregoing rights, including without limitation costs of evidence of title, court costs, appraisals, surveys and attorneys' fees, together with interest thereon at the Default Rate from the date of each such expenditure by Beneficiary.

1.12 Eminent Domain. That should the Trust Estate, or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner including settlement under threat of condemnation ("Condemnation"), or should Trustor receive any notice or other information regarding such proceeding, Trustor shall give prompt written notice thereof to Beneficiary.

(a) Beneficiary shall be entitled to all compensation, awards and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name any action or proceedings. Beneficiary shall also be entitled to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds awarded to Trustor (the "Proceeds") are hereby assigned to Beneficiary and Trustor agrees to execute such further assignments of the Proceeds as Beneficiary or Trustee may require.

(b) In the event any portion of the Trust Estate is so taken or damaged, Beneficiary shall have the option, in its sole and absolute discretion, to apply all such Proceeds, after deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit), including attorneys' fees, incurred by it in connection with such Proceeds, upon any indebtedness secured hereby and in such order as Beneficiary may determine, or to apply all such Proceeds, after such deductions, to the restoration of the Trust Estate upon such conditions as Beneficiary may determine. Such application or release shall not cure or waive any Event of Default or notice of default hereunder or invalidate any act done pursuant to such notice.

(c) No prepayment premium shall be applicable to any Proceeds received by Beneficiary under this Section 1.12.

1.13 Additional Security. That in the event Beneficiary at any time holds additional security for any of the obligations secured hereby, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently herewith or after a sale is made hereunder.

1.14 Appointment of Successor Trustee. That Beneficiary may, from time to time, by a written instrument executed and acknowledged by Beneficiary and recorded in the County in which the Trust Estate is located and by otherwise complying with the

provisions of the applicable law of the State of Washington substitute a successor or successors to the Trustee named herein or acting hereunder.

1.15 Inspections. That Beneficiary, or its agents, representatives or workmen, upon prior notice to Trustor, are authorized to enter at any reasonable time upon or in any part of the Trust Estate for the purpose of inspecting the same for any purpose, including, but not limited to, periodic inspections and inspections prior to foreclosure to determine compliance with all hazardous waste, environmental and building laws, and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Loan Instruments.

1.16 Liens. To pay and promptly discharge, at Trustor's cost and expense, all liens, encumbrances and charges upon the Trust Estate, or any part thereof or interest therein; provided that the existence of any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right thereto shall not constitute a violation of this Section if payment is not yet due under the contract which is the foundation thereof. Trustor shall have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided Trustor shall first deposit with Beneficiary a bond or other security satisfactory to Beneficiary in such amounts as Beneficiary shall require, but not more than one hundred fifty percent (150%) of the amount of the claim plus costs and expenses, including attorney's fees and interest, and provided further that Trustor shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. If Trustor shall fail to discharge any such lien, encumbrance or charge, or provide such reasonable security, then, in addition to any other right or remedy of Beneficiary, Beneficiary may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge of such lien by depositing in court a bond for the amount claimed or otherwise giving security for such claim, or in such manner as is or may be prescribed by law.

1.17 Trustee's Powers. At any time, or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note secured hereby for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby or the effect of this Deed of Trust upon the remainder of said Trust Estate, Trustee may (i) reconvey any part of said Trust Estate, (ii) consent in writing to the making of any map or plat thereof, (iii) join in granting any easement thereon, or (iv) join in any extension agreement or any agreement subordinating the lien or charge hereof.

1.18 Beneficiary's Powers. Without affecting the liability of any other person liable for the payment of any obligation herein mentioned, and without affecting the lien or charge of this Deed of Trust upon any portion of the Property not then or theretofore

released as security for the full amount of all unpaid obligations, Beneficiary may, from time to time and without notice (i) release any person so liable, (ii) extend the maturity or alter any of the terms of any such obligation, (iii) grant other indulgences, (iv) release or reconvey, or cause to be released or reconveyed at any time at Beneficiary's option any parcel, portion or all of the Trust Estate, (v) take or release any other or additional security for any obligation herein mentioned, or (vi) make compositions or other arrangements with debtors in relation thereto, or (vii) advance additional funds to protect the security hereof and pay or discharge the obligations of Trustor hereunder or under the Loan Instruments, and all amounts so advanced with interest thereon at the Default Rate shall be due upon demand and shall be secured hereby.

1.19 ADA and Open Housing. Trustor is, and shall remain at all times while any indebtedness secured by this Deed of Trust is outstanding, in full compliance with the Americans with Disabilities Act of 1990, as it may hereafter be amended, and with the provisions of all state, federal and local laws prohibiting discrimination in housing on the basis of race, color, creed or national origin, including, but not limited to, the requirements of Title VIII of the 1968 Civil Rights Act.

ARTICLE II

ASSIGNMENT OF RENTS, ISSUES AND PROFITS

2.01 Assignment of Rents and Leases. Trustor hereby absolutely and unconditionally assigns and transfers to Beneficiary (a) all right, title and interest of Trustor in and to any and all present and future leases and other agreements for the occupancy or use of all or any part of the Trust Estate, and any and all extensions, renewals and replacements thereof (collectively "Leases"), including without limitation all cash or security deposits, advance rentals and deposits or payments of similar nature, (b) any and all guaranties of tenants' or occupants' performances under any and all Leases, and (c) all rents, issues, profits and revenues, including any that may hereafter be deemed cash collateral under any bankruptcy or similar proceeding (collectively "Rents") now due or which may become due or to which Trustor may now be or shall hereafter become entitled or may demand or claim (including Rents coming due during any redemption period), arising or issuing from or out of any and all Leases, including without limitation minimum, additional, percentage and deficiency rents and liquidated damages.

2.02 Collection of Rents. Prior to an Event of Default hereunder or under the Note, Trustor shall have a license to, and will, collect and receive all Rents of the Trust Estate as trustee for the benefit of Beneficiary and Trustor, to apply the Rents so

collected first to the payment of taxes, assessments and other charges on the Trust Estate prior to delinquency, second to the cost of insurance, maintenance and repairs required by the terms of this Deed of Trust, third to the costs of discharging any obligation or liability of Trustor under the Leases, and fourth to the indebtedness secured hereby, with the balance, if any, to the account of Trustor. Upon an Event of Default hereunder or under the Note, and without the necessity of Beneficiary entering upon and taking and maintaining full control of the Trust Estate in person, by agent or by a court-appointed receiver, Beneficiary shall immediately be entitled to possession of all Rents from the Trust Estate as the same become due and payable, including without limitation Rents then due and unpaid, and all such Rents shall immediately upon an Event of Default be held by Trustor as trustee for the benefit of Beneficiary only. Upon delivery of written notice by Beneficiary to Trustor of Beneficiary's election to receive the Rents, Trustor hereby agrees to direct each tenant or occupant of the Trust Estate to pay all Rents to Beneficiary on Beneficiary's written demand therefor, without any liability on the part of said tenant or occupant to inquire further as to the existence of a default by Trustor; Trustor hereby authorizes Beneficiary as Trustor's attorney-in-fact to make such direction to tenants and occupants. Payments made to Beneficiary by tenants or occupants shall, as to such tenants and occupants, be in discharge of the payors' obligations to Trustor. Beneficiary may exercise, in Beneficiary's or Trustor's name, all rights and remedies available to Trustor with respect to collection of Rents. Nothing herein contained shall be construed as obligating Beneficiary to perform any of Trustor's obligations under any of the Leases.

2.03 Trustor's Representations and Warranties. Trustor hereby represents and warrants to Beneficiary that Trustor has not executed and will not execute any other assignment of said Leases or Rents (except to Beneficiary), that Trustor has not performed and will not perform any acts and has not executed and will not execute any instrument which would prevent Beneficiary from exercising its rights under this Article II, and that at the time of execution of this Deed of Trust there has been no anticipation or prepayment of any of the Rents of the Trust Estate for more than one (1) month prior to the due dates thereof. Trustor further represents and warrants to Beneficiary that all the Leases are in good standing and there is no default thereunder, whether by Trustor or lessee, nor to Trustor's knowledge any event or condition which, with notice or the passage of time or both, would be a default thereunder.

2.04 Leases of the Property. Trustor will comply with and observe Trustor's obligations as landlord under all Leases and will do all that is necessary to preserve all Leases in force and free from any right of counterclaim, defense or setoff. At Beneficiary's request, Trustor will furnish Beneficiary with executed copies of all Leases now existing or hereafter made and all Leases hereafter entered into will be on a form and in substance satisfactory to Beneficiary. All Leases will specifically provide that the

tenant attorns to any person succeeding to the interest of Trustor upon any foreclosure of this Deed of Trust or conveyance in lieu thereof. Without Beneficiary's written consent, Trustor will not collect or accept payment of any Rents of the Trust Estate more than one (1) month prior to the due dates thereof, and Trustor will not execute, modify, extend, surrender or terminate any Lease now existing or hereafter made, will not in any manner waive, discharge, release or modify the obligations of any tenant or other occupant of the Trust Estate under any Lease, or request or consent to the subordination of any Lease to any lien subordinate to this Deed of Trust.

2.05 Lender in Possession; Appointment of Receiver. Upon any Event of Default hereunder, Beneficiary may, in person, by agent or by a court-appointed receiver, regardless of the adequacy of Beneficiary's security, enter upon and take and maintain full control of the Trust Estate in order to perform all acts necessary and appropriate for the operation and maintenance thereof in the same manner and to the same extent as Trustor could do the same, including without limitation the execution, enforcement, cancellation and modification of Leases, the collection of all Rents of the Trust Estate, the removal and eviction of tenants and other occupants, the making of alterations and repairs to the Trust Estate, and the execution and termination of contracts providing for management or maintenance of the Trust Estate, all on such terms as are deemed best by Beneficiary to protect the security of this Deed of Trust. From and after the occurrence of any such Event of Default, if any owner of the Trust Estate shall occupy the Trust Estate or part thereof such owner shall pay to Beneficiary in advance on the first day of each month a reasonable rental for the space so occupied, and upon failure so to do Beneficiary shall be entitled to remove such owner from the Trust Estate by any appropriate action or proceedings. Following an Event of Default hereunder, Beneficiary shall be entitled (without notice and regardless of the adequacy of Beneficiary's security) to the appointment of a receiver, Trustor hereby consenting to the appointment of such receiver, and the receiver shall have, in addition to all the rights and powers customarily given to and exercised by such receivers, all the rights and powers granted to Beneficiary in this Article II. Beneficiary or the receiver shall be entitled to receive a reasonable fee for so managing the Trust Estate.

2.06 Application of Rents. All Rents collected subsequent to delivery of written notice by Beneficiary to Trustor of Beneficiary's election to take possession of the Rents shall be applied first to the costs, if any, of taking control of and managing the Trust Estate and collecting the Rents, including without limitation attorneys' fees, receiver's fees, premiums on receiver's bonds, costs of maintenance and repairs to the Trust Estate, premiums on insurance policies, taxes, assessments and other charges on the Trust Estate, and the costs of discharging any obligation or liability of Trustor under the Leases, and then to the indebtedness secured hereby. Beneficiary or the receiver shall be liable to account only for those Rents actually received. Beneficiary shall not be liable to Trustor,

anyone claiming under or through Trustor or anyone having an interest in the Trust Estate by reason of anything done or left undone by Beneficiary under this Article II, except for instances of Beneficiary's willful or reckless misconduct.

2.07 Deficiencies. To the extent, if any, that the costs of taking control of and managing the Trust Estate, collecting the Rents, and discharging obligations and liabilities of Trustor under the Leases, exceed the Rents of the Trust Estate, the excess sums expended for such purposes shall be indebtedness secured by this Deed of Trust. Such excess sums shall be payable upon demand by Beneficiary and shall bear interest from the date of disbursement at the Default Rate.

2.08 Lender Not Mortgagee in Possession. Nothing herein shall constitute Beneficiary a "mortgagee in possession" prior to its actual entry upon and taking possession of the Trust Estate, entry upon and taking possession by a receiver not constituting possession by Beneficiary.

2.09 Enforcement. Beneficiary may enforce this assignment without first resorting to or exhausting any security or collateral for the indebtedness. As used in this Article II, the word "lease" shall mean "sublease" if this Deed of Trust is on a leasehold. This assignment shall terminate at such time as this Deed of Trust ceases to secure payment of indebtedness held by Beneficiary.

ARTICLE III

SECURITY AGREEMENT

3.01 Creation of Security Interest. Trustor hereby grants to Beneficiary a security interest in the Personal Property, except as such items shall be deemed part of the improvements subject to this Deed of Trust, located on or at the Property, including without limitation any and all property of similar type or kind hereafter located on or at the Property for the purpose of securing all obligations of Trustor contained in any of the Loan Instruments. This Article III shall include, in addition to the tangible personal property included with such term as hereinabove defined in this Deed of Trust, all fixtures, attachments, appliances, equipment, machinery and other articles attached to the buildings and improvements which are part of the premises.

3.02 Warranties, Representations and Covenants of Trustor. Trustor hereby warrants, represents and covenants as follows:

(a) Except for the security interest granted hereby and the security interest granted by Valley Freightliner, Inc. to Beneficiary contemporaneously herewith,

Trustor is, and as to portions of the Personal Property to be acquired after the date hereof will be, the sole owner of the Personal Property, free from any adverse lien, security interest, encumbrance or adverse claims thereon of any kind whatsoever. Trustor will notify Beneficiary of, and will defend the Personal Property against, all claims and demands of all persons at any time claiming the same or any interest therein.

(b) Trustor will not lease, sell, convey or in any manner transfer the Personal Property without the prior written consent of Beneficiary, except as provided in Section 6.14 of this Deed of Trust.

(c) The Personal Property is not used or bought for personal, family or household purposes.

(d) The Personal Property will be kept on or at the Property and Trustor will not remove the Personal Property from the Property without the prior written consent of Beneficiary, except such portions or items of Personal Property which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Trustor, with items of equal or greater quality.

(e) Trustor maintains a place of business in the State of Washington and Trustor will immediately notify Beneficiary in writing of any change in its place of business as set forth in the beginning of this Deed of Trust.

(f) At the request of Beneficiary, Trustor will join Beneficiary in executing one or more financing statements and renewals and amendments thereof pursuant to the Uniform Commercial Code of Washington in form satisfactory to Beneficiary, and will pay the cost of filing the same in all public offices wherever filing is deemed by Beneficiary to be necessary or desirable.

(g) All covenants and obligations of Trustor contained herein relating to the Trust Estate shall be deemed to apply to the Personal Property whether or not expressly referred to herein.

(h) This Deed of Trust constitutes a Security Agreement as that term is used in the Uniform Commercial Code of Washington.

(i) It shall be an Event of Default if, without prior written consent of Beneficiary, Trustor creates or permits any other mortgage lien on the Personal Property or fails to pay when same shall become due, all lawful claims and demands of mechanics, materialmen, laborers, and others which, if unpaid, might result in or permit the creation

of a lien on the Personal Property or on the revenues, rents issues, income and profits arising therefrom.

ARTICLE IV

REMEDIES UPON DEFAULT

4.01 Events of Default. Any of the following occurrences shall be an Event of Default hereunder:

(a) Failure to make the payment of any installment of principal or interest or any other sum secured hereby within ten (10) days of the due date; or

(b) Trustor shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Trustor or of all or any part of the Trust Estate, or of any or all of the royalties, revenues, rents, issues or profits thereof, or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or

(c) A court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Trustor seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive from the first date of entry thereof); or any trustee, receiver or liquidator of Trustor or of all or any part of the Trust Estate, or of any or all of the royalties, revenues, rents, issues or profits thereof, shall be appointed without the consent or acquiescence of Trustor and such appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive); or

(d) A writ of execution or attachment or any similar process shall be issued or levied against all or any part of or interest in the Trust Estate, or any judgment involving monetary damages shall be entered against Trustor which shall become a lien on the Trust Estate or any portion thereof or interest therein and such execution,

attachment or similar process or judgment is not released, bonded, satisfied, vacated or stayed within sixty (60) days after its entry or levy; or

(e) There has occurred a breach of or default under any non-monetary term, covenant, agreement, condition, provision, representation or warranty contained in any of the Loan Instruments, or any part thereof, not referred to in this Section 4.01, which is not cured within thirty (30) days after written notice from Beneficiary to Trustor; provided, if the default is not susceptible of being cured within said thirty (30) day period, then Trustor shall commence the cure within said thirty (30) day period and diligently thereafter prosecute the cure to completion without delay or interruption and such cure shall be completed in any event no later than ninety (90) days after written notice from Beneficiary to Trustor; or

(f) There has occurred a breach of or default under any covenant, agreement, condition, provision, representation or warranty contained in the Environmental Indemnity Agreement which is not cured within the applicable cure period set forth in such document, if any; or

(g) There has occurred a violation of any condition, covenant or restriction recorded against or affecting the Trust Estate and such violation is not cured within the applicable cure period, if any.

4.02 Acceleration Upon Default; Additional Remedies. Upon an Event of Default, Beneficiary may declare all indebtedness secured hereby to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or, or to the extent permitted by law, notice of any kind. Beneficiary may also:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Trust Estate, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Trust Estate, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Trust Estate, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorneys' fees, upon any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the Trust Estate, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any Event of Default or notice of default hereunder or invalidate any act done in response

to such Event of Default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Trust Estate or the collection, receipt and application of rents, issues or profits, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Loan Instruments or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Exercise any or all of the remedies available to a secured party under the Washington Uniform Commercial Code, including, but not limited to:

- (i) Either personally or by means of a court appointed receiver, take possession of all or any of the Personal Property and exclude therefrom Trustor and all others claiming under Trustor, 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 Trustor in respect to the Personal Property or any part thereof. In the event Beneficiary demands or attempts to take possession of the Personal Property in the exercise of any rights under any of the Loan Instruments, Trustor promises and agrees to promptly turn over and deliver complete possession thereof to Beneficiary;
- (ii) Without notice to or demand upon Trustor, make such payments and do such acts as Beneficiary may deem necessary to protect its security interest in the Personal Property, including without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority to pay all expenses incurred in connection therewith;
- (iii) Require Trustor to assemble the Personal Property or any portion thereof, at a place designated by Beneficiary, and promptly to deliver such Personal Property to Beneficiary, or an agent or representative designated by it. Beneficiary, and its agents and representatives, shall have the right to enter upon any or all of Trustor's premises and property to exercise Beneficiary's rights hereunder;

- (iv) Subject to the provisions of subsection 4.02 (c)(v) below, sell, lease or otherwise dispose of the Personal Property at public sale, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as Beneficiary may determine. Beneficiary may be a purchaser at any such sale;
- (v) Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give Trustor at least ten (10) days prior written notice of the time and place of any public sale of the Personal Property or other intended disposition thereof. Such notice may be mailed to Trustor at the address set forth at the beginning of this Deed of Trust; or
- (d) Deliver to Trustee a written notice of default and request to cause Trustor's interest in the Trust Estate to be sold.

4.03 Foreclosure by Power of Sale. Should Beneficiary elect to foreclose by exercise of the power of sale herein contained, Beneficiary shall notify Trustee and Trustee shall sell the trust property, 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 parcel. Any person except Trustee may bid at the Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (1) to the expense of sale, including a Trustee's fee and attorney's fee; (2) to interest due under the Deed of Trust; (3) to principal due under this Deed of Trust; (4) the surplus, if any, shall be distributed either to the persons entitled thereto or such surplus, less the clerk's filing fee, shall be deposited with the clerk of the Superior Court as provided by law. 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 Trustor has or had the power to convey at the time of his execution of this Deed of Trust, and such as he may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide 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, Beneficiary may foreclose this Deed of Trust as a mortgage. In the event of death, incapacity or disability or resignation of Trustee, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee.

The Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Trustee or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

4.04 Appointment of Receiver. If an Event of Default shall have occurred, Beneficiary shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Trust Estate, and Trustor hereby irrevocably consents to such appointment. 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 Beneficiary in case of entry as provided in Section 4.02(a) and shall continue as such and exercise all such powers until the date of confirmation of sale of the Trust Estate unless such receivership is sooner terminated.

4.05 Remedies Not Exclusive. Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or under any Loan Instrument or other agreement or any laws now or hereafter in force, notwithstanding some or all of the said indebtedness and obligations secured hereby 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 Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Instruments to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies.

ARTICLE V

ENVIRONMENTAL COMPLIANCE MATTERS

5.01 **Definitions.** For purposes of this Article V, the following terms shall be defined as follows:

(a) "Hazardous Material" means any radioactive, hazardous or toxic substance, material, waste or similar term, the presence of which on the Trust Estate or the discharge or emission of which from the Trust Estate is prohibited by Governmental Requirements (hereafter defined) or which require special handling in collection, storage, treatment or disposal by any Governmental Requirements. The term Hazardous Material includes, but is not limited to, any material, substance, waste or similar term which is:

- (i) Defined as a hazardous or toxic material or substance under the laws of the State of Washington as amended from time to time, including, but not limited to, the Washington Model Toxics Control Act, Initiative 97, as passed by the People of the State of Washington on November 8, 1988, and Washington Administrative Code 173-303;
- (ii) Defined as a hazardous substance under the Federal Water Pollution Control Act of 1977 (33 U.S.C. Section 1251 et seq.) as amended from time to time;
- (iii) Defined as a hazardous waste under Section 1004 of the Federal Resource Conservation and Recovery Act (RCRA) (42 U.S.C. Section 6901, et seq.) as amended from time to time;
- (iv) Defined as a hazardous waste or substance under the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Superfund Amendments and Reauthorization Act of 1986 (SARA) (42 U.S.C. Section 9601, et seq.) as amended from time to time;
- (v) Defined as a radioactive, hazardous or toxic substance, waste, material or similar term in any rules and regulations, as amended from time to time, which are adopted by any administrative agency; including, but not limited to the Environmental Protection Agency, the Occupational Safety

and Health Administration, and any such similar state or local agency having jurisdiction over the Property, whether or not such rules and regulations have the force of law;

- (vi) Determined to contain asbestos, urea formaldehyde or polychlorinated biphenyls or similar solvents; gasoline and other petroleum products; flammable explosives; radon and other natural gases; radioactive materials;
- (vii) Defined as a radioactive, hazardous or toxic waste, substance, material or similar term in any other statute, regulation, rule or law presently in effect, or enacted or adopted at any time after the date of this Deed of Trust, by local authorities, the State of Washington, and/or the federal government;
- (viii) Subject to regulation under the Federal Toxic Substances Control Act (TSCA) 15 U.S.C., Section 2601 et seq.; the Federal Hazardous Materials Transportation Control Act, 49 U.S.C. Section 1801, et seq.; the Federal Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 136, et seq.; the Federal Safe Drinking Water Act, 42 U.S.C. Section 300 et seq.; each as amended from time to time; or
- (ix) Subject to regulation under Washington Water Pollution Control Act, Chapter 90.48 RCW; Washington Clean Air Act, Chapter 70.94 RCW; Washington Solid Waste Management--Recovery and Recycling Act, Chapter 70.95 RCW; Washington Hazardous Waste Management Act, Chapter 70.105 RCW; Washington Hazardous Waste Fees Act, Chapter 70.105A RCW; Washington Nuclear Energy and Radiation Act, Chapter 70.98 RCW; Washington Radioactive Waste Storage and Transportation Act, Chapter 70.99 RCW; Washington Underground Petroleum Storage Tanks Act, Chapter 70.148 RCW; and Washington Model Toxics Control Act, Chapter 70.105D RCW.

(b) "Governmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the State of Washington, and all local or governmental or regulatory authorities exercising jurisdiction over Trustor or the Trust Estate.

(c) "Hazardous Material Contamination" shall mean the contamination (whether presently existing or hereafter occurring) of buildings, facilities, soil, ground water, air or other elements on, or of, the Trust Estate, or the contamination of the buildings, facilities, soil, ground water, air or other elements on, or of, any other property as a result of Hazardous Material at any time (whether before or after the date of this Deed of Trust) emanating from the Trust Estate.

5.02 No Hazardous Material. Trustor warrants and represents that, to the best of its knowledge after due and diligent inquiry as of the date hereof, there is no Hazardous Material on or in the Trust Estate, or being released or discharged therefrom (the term "Trust Estate" expressly including for the purposes of this Section 5.02, all buildings and other improvements located thereon, all Personal Property described herein, the soil and the ground water thereof, including the streams crossing or abutting the Trust Estate and the aquifer underlying the Trust Estate) whether such Hazardous Material be located or placed on or within the Trust Estate by spill, release, discharge, disposal, storage or otherwise.

To the best of Trustor's knowledge, except as disclosed in the Phase I Environmental Report dated April, 1998, prepared by Edge Analytical, Inc., (i) no part of the Trust Estate has ever been used as a manufacturing, storage or dump site for Hazardous Material, nor is any part of the Trust Estate affected by any Hazardous Material Contamination; (ii) no property adjoining the Trust Estate has ever been used as a manufacturing, storage or dump site for Hazardous Material; and (iii) no property adjoining the Trust Estate is affected by Hazardous Material Contamination.

Trustor covenants and agrees that, from the date hereof, Trustor and Trustor's agents, contractors, authorized representatives and employees (collectively "Trustor's Agents") shall not engage in any of the following prohibited activities, and Trustor shall use its best and diligent efforts to see that Trustor's invitees and tenants, and such tenants' and invitees' employees and agents and such tenants' invitees shall not:

(a) Cause or permit any releases or discharges of Hazardous Material from the Trust Estate in violation of applicable laws; or

(b) Cause or permit any manufacturing, holding, handling, retaining, transporting, spilling, leaking, or dumping of Hazardous Material in or on any portion of the Trust Estate in violation of applicable laws; or

(c) Otherwise place, keep or maintain, or allow to be placed, kept or maintained, any Hazardous Material on any portion of the Trust Estate in violation of applicable laws.

5.03 Compliance with Law. From the date hereof, Trustor shall comply, and Trustor shall use its best and diligent efforts to cause Trustor's Agents and the Trust Estate to comply, with all laws, ordinances, rules and regulations of all authorities having jurisdiction over Trustor, Trustor's Agents, the Trust Estate, or the use of the Trust Estate which pertain to any Hazardous Material (herein called "Hazardous Material Laws").

5.04 Removal of Hazardous Material and Freedom from Liens. If Hazardous Material is discovered on the Trust Estate, Trustor shall immediately remove said Hazardous Materials and shall pay when due the cost of removal of any Hazardous Material from the Trust Estate in compliance with all Governmental Requirements and Trustor shall keep the entire Trust Estate free of any lien imposed pursuant to any laws, regulations or orders of any governmental or regulatory authority having to do with the removal of Hazardous Material.

Within thirty (30) days after demand by Beneficiary, Trustor shall obtain and deliver to Beneficiary a bond, letter of credit, or similar financial assurance for the benefit of Beneficiary evidencing, to Beneficiary's satisfaction, that the necessary funds are available to pay the cost of removing, treating and disposing of all Hazardous Material or Hazardous Material Contamination on the Trust Estate and discharging any assessments or liens which may be established on the Trust Estate as a result thereof.

5.05 Hazardous Material Reports. To the best of Trustor's knowledge, no report, analysis, study or other document asserting that Hazardous Material Contamination exists on the Trust Estate or identifying any Hazardous Material as being located upon or released or discharged from the Trust Estate has been issued. Trustor shall:

(a) Give notice to Beneficiary immediately upon Trustor's acquiring knowledge of the presence of any Hazardous Material on the Property or of any Hazardous Material Contamination thereon, with a full description thereof;

(b) Promptly advise Beneficiary in writing of any notices received by Trustor or Trustor's Agents alleging that the Trust Estate contains Hazardous Material or Hazardous Material Contamination or that a violation or potential violation of any Hazardous Material Laws by Trustor, Trustor's Agents, or the Trust Estate exists (whether such notices are received from the Environmental Protection Agency, the Occupational Safety and Health Agency, or any other federal, state or local governmental agency or regional office thereof);

(c) Upon Trustor acquiring knowledge, promptly advise Beneficiary in writing of any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened with respect to the Trust Estate or any property adjoining the Trust Estate pursuant to any Hazardous Material Laws;

(d) Upon Trustor acquiring knowledge, promptly advise Beneficiary in writing of all claims made or threatened by any third party against Trustor, Trustor's Agents, or the Trust Estate relating to damage, contributions, cost recovery compensation, loss or injury resulting from any Hazardous Material or Hazardous Material Contamination pertaining to the Trust Estate; and

(e) Promptly advise Beneficiary in writing upon Trustor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Trust Estate which does, or could cause, the Trust Estate, or any part thereof, to contain Hazardous Material Contamination or otherwise be in violation of any Hazardous Material Laws, or cause the Trust Estate to be subject to any restrictions on the ownership, occupancy, transferability or use thereof under any Hazardous Material Laws.

5.06 Remedial Action; Beneficiary's Consent. Without Beneficiary's prior written consent, Trustor shall not take any remedial action in response to the presence of any Hazardous Material or Hazardous Material Contamination upon or about the Trust Estate, nor enter into any settlement agreement, consent decree or other compromise in respect to any violation or alleged violation of any Hazardous Material Laws, which remedial action, settlement, consent or compromise which could reasonably be expected to, in Beneficiary's reasonable judgment, materially impair the value of Beneficiary's security hereunder; provided, however, that Beneficiary's prior consent shall not be necessary in the event that the presence of Hazardous Material or Hazardous Material Contamination on or about the Trust Estate either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not possible to obtain Beneficiary's consent before taking such action. In such event, Trustor shall notify Beneficiary as soon as practicable of any action so taken. Beneficiary shall not withhold its consent, where such consent is required hereunder, if either (i) a particular remedial action is ordered by a court of competent jurisdiction, or (ii) Trustor establishes to the sole satisfaction of Beneficiary that there is no reasonable alternative to such remedial action which would result in less impairment of Beneficiary's security hereunder.

5.07 Environmental Audit. Beneficiary, at any time and from time to time during the term of the Loan, if Trustor is in default and Beneficiary is contemplating taking any action to acquire possession or title to the Trust Estate, may notify Trustor in writing that it desires a site assessment or environmental audit (such assessment or audit

being herein called the "Audit") of the Trust Estate to be made, and at any time thereafter cause such site assessment or environmental audit to be made of the Trust Estate at Trustor's sole expense by persons or entities selected by Beneficiary. Such Audit(s) shall be performed in a manner satisfactory to Beneficiary in its sole discretion. Such results shall be kept confidential by Trustor and Beneficiary unless a party is legally compelled or required to disclose such results, or disclosure is required in order to pursue rights or remedies provided herein or at law.

If Trustor fails to pay for the Audit as provided for herein within fifteen (15) days of receipt of billing therefor, such failure shall be an Event of Default hereunder.

Trustor covenants to cooperate with the persons conducting the Audit (the "Auditors") to allow entry and access to all portions of the Trust Estate for the purpose of the Audit, to supply the Auditors with all available historical and operational information regarding the Trust Estate as may be requested by the Auditors, and to make available for meetings with the Auditors appropriate personnel having knowledge of matters relevant to the Audit. Trustor covenants to comply, at its sole cost and expense, with all recommendations contained in the Audit, including any recommendation for additional testing and studies to detect the presence of Hazardous Material or Hazardous Material Contamination, or to otherwise confirm and verify Trustor's compliance with the provisions of this Article V, to the extent required by Beneficiary.

5.08 Trustor's Failure to Comply. In addition to any other right or remedy contained in this Deed of Trust, or in any other Loan Document, if Trustor shall fail to comply with any term, provision or requirement of this Article V, and if such failure to comply shall not be corrected within the lesser of the following time periods (the "Correction Period"):

- (a) Thirty (30) days after notice thereof from Beneficiary; or
- (b) The time period specified by any governmental or regulatory body for corrective action with respect to such failure to comply;

then such failure to comply shall, at Beneficiary's election and without further notice, constitute an Event of Default under this Deed of Trust; provided, however, if Trustor's failure to comply shall be of such nature that it cannot be corrected within the Correction Period, and if Trustor shall, within said Correction Period, commence to comply, and thereafter diligently prosecute such corrective action to completion, and provided the governmental or regulatory body having jurisdiction with respect to such failure shall not

object, then Trustor shall have a reasonable additional period beyond said Correction Period in which to cure such failure to comply.

ARTICLE VI

MISCELLANEOUS

6.01 Governing Law. This Deed of Trust shall be governed by the laws of the State of Washington. In the event that any provision or clause of any of the Loan Instruments conflicts with applicable laws, such conflicts shall not affect other provisions of such Loan Instruments which can be given effect without the conflicting provision, and to this end the provisions of the Loan Instruments are declared to be severable. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

6.02 Trustor Waiver of Rights. To the full extent Trustor may do so, Trustor waives (i) the benefit of all laws now existing or that hereafter may be enacted providing for any appraisalment before sale of any portion of the Trust Estate, and (ii) the benefit of all laws that may be hereafter enacted in any way extending the time for the enforcement of the collection of the Note or the debt evidenced thereby or creating or extending a period of redemption from any sale made in collecting said debt. To the full extent Trustor may do so, Trustor agrees that Trustor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisalment, valuation, stay, extension or redemption, and Trustor, for Trustor, Trustor's heirs, devisees, representatives, successors and assigns and for any and all persons ever claiming any interest in the Trust Estate, to the extent permitted by law, hereby waives, transfers and releases all rights of redemption, valuation, appraisalment, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshaling in the event of foreclosure of the liens hereby created. If any law referred to in this Section and now in force, of which Trustor, Trustor's heirs, devisees, representatives, successors and assigns or other person might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to preclude the application of this Section. Trustor expressly waives and relinquishes any and all rights and remedies which Trustor may have or be able to assert by reason of the laws of the State of Washington pertaining to the rights and remedies of sureties.

6.03 Limitation of Interest. It is the intent of Trustor and Beneficiary in the execution of this Deed of Trust and the Note and all other instruments securing the Note

to contract in strict compliance with the usury laws of the State of Washington governing the loan evidenced by the Note. In furtherance thereof, Beneficiary and Trustor stipulate and agree that none of the terms and provisions contained in the Loan Instruments 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 interest rate permitted to be charged by the laws of the State of Washington governing the loan evidenced by the Note. Trustor or any guarantor, 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 interest that may be lawfully charged under the laws of the State of Washington and the provisions of this Section shall control over all other provisions of the Note and any other instrument executed in connection herewith which may be in apparent conflict herewith. In the event any holder of the Note shall collect monies which are deemed to constitute interest which would otherwise increase the effective interest rate on the Note to a rate in excess of that permitted to be charged by the laws of the State of Washington, all such sums deemed to constitute interest in excess of the maximum permissible rate shall immediately be returned to the Trustor upon such determination. This section shall not be applied for the benefit of persons who by statute may not plead the defense of usury nor maintain any action thereon or therefor.

6.04 Reconveyance by Trustee. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment by Trustor of Trustee's fees, Trustee shall reconvey to Trustor, or the person or persons legally entitled thereto, without warranty, any portion of the Trust Estate then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto."

6.05 Notices. Whenever Beneficiary, Trustor or Trustee shall desire to give or serve any notice, demand, request or other communication with respect to the Note or this Deed of Trust, each such notice, demand, request or other communication shall be in writing and shall be effective only if the same is delivered by personal service, mailed by certified mail, postage prepaid, return receipt requested or sent by a commercially recognized "overnight courier" such as Federal Express, addressed to the address set forth at the beginning of this Deed of Trust. Any notice sent in the foregoing manner shall be deemed received on the earlier of: (a) the date it is actually received, or (b) three (3) days after it has been deposited into the U.S. Mail or overnight courier. Any party may at any time change its address for such notices by delivering or mailing to the other parties hereto, as aforesaid, a notice of such change.

6.06 Acceptance by Trustee. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

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

6.08 Invalidity of Certain Provisions. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Trust Estate, the unsecured or partially unsecured portion of the debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the debt which is not secured or fully secured by the lien of this Deed of Trust.

6.09 Subrogation. To the extent that proceeds of the Note or advances under the Deed of Trust are used to pay any outstanding lien, charge or prior encumbrance against the Trust Estate, such proceeds or advances have been or will be advanced by Beneficiary at Trustor's request and Beneficiary shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

6.10 No Merger. If both the lessor's and lessee's estates under any lease or any portion thereof which constitutes a part of the Trust Estate shall at any time become vested in one owner, no merger shall occur unless so intended by Beneficiary or its successor acknowledging such intent in writing and this Deed of Trust and the lien created hereby shall not be destroyed or terminated by application of the doctrine of merger and, in such event, Beneficiary shall continue to have and enjoy all of the rights and privileges of Beneficiary as to the separate estates. In addition, upon the foreclosure of the lien created by this Deed of Trust on the Trust Estate pursuant to the provisions hereof, any lease or sublease then existing and created by Trustor shall not be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such foreclosure unless Beneficiary or any purchaser at any such foreclosure sale shall so elect in writing. No act by or on behalf of Beneficiary or any such purchaser shall constitute a termination of any lease or sublease unless Beneficiary or such purchaser shall give written notice thereof to such tenant or subtenant.

6.11 Non-Agricultural. The property which is the subject of this Deed of Trust (the Trust Estate) is not used principally or primarily for agricultural or farming purposes.

6.12 Successors and Assigns. Each covenant, agreement and provision herein contained shall apply to, enure to the benefit of, and be binding upon the Trustor, the Trustee and the Beneficiary, and their respective heirs, personal representatives, successors and assigns, and shall bind all other persons of every nature and description claiming an interest in the Property. The term "Beneficiary" as used herein shall include any lawful owner, holder, or pledgee of the Indebtedness secured hereby. Whenever the context hereof requires, this instrument shall be appropriately construed so as to apply to the Trustor, whether one or more, and whether they be natural persons or corporations. The singular shall include the plural, the plural the singular and words of one gender shall include any other gender.

6.13 Non-Waiver. The acceptance by Beneficiary of any sum after the same is due shall not constitute a waiver of the right either to require prompt payment, when due, of all other sums hereby secured or to declare a default as herein provided. The acceptance by Beneficiary of any sum in the amount less than the sum then due shall be deemed an acceptance on account only and upon condition that it shall not constitute a waiver of the obligation of Trustor to pay the entire sum then due, and Trustor's failure to pay said entire sum then due shall be and continue to be an Event of Default notwithstanding such acceptance of such amount on account, as aforesaid, and Beneficiary or Trustee shall be at all times thereafter and until the entire sum then due shall have been paid, and notwithstanding the acceptance by Beneficiary thereafter of further sums on account, or otherwise, entitled to exercise all rights in this instrument conferred upon them, or either of them, upon the occurrence of an Event of Default, and the right to proceed with foreclosure under any notice of default shall in no way be impaired, whether any of such amounts are received prior or subsequent to such notice. Consent by Beneficiary to any transaction or action of Trustor which is subject to consent or approval of Beneficiary hereunder shall not be deemed a waiver of the right to require such consent or approval to future or successive transactions or actions.

6.14 Restriction on Sale; Encumbrance. For the purpose of protecting Beneficiary's security, keeping the Trust Estate free from subordinate financing liens and allowing Beneficiary to raise the interest rate and collect assumption fees, Trustor agrees that any sale, conveyance, further encumbrance (including the granting of any easements or other matters affecting title) or other transfer of title to the Trust Estate, or any interest therein (whether voluntarily or by operation of law) without Beneficiary's prior written consent, except a Ground Lease for a term of forty (40) years to Valley Freightliner, Inc., and except for certain financing extended to Valley Freightliner by Lender in the amount of \$2,908,885 and the security interests granted to secure said financing, shall be an Event of Default under the Loan Instruments. Upon the occurrence of such an Event of Default, the entire balance of the indebtedness and all other sums secured by this Deed of Trust shall be and become immediately due and

payable, at the option of Beneficiary. Any consent by Beneficiary permitting an otherwise prohibited transfer or transaction shall not constitute a consent to or waiver of any right, remedy or power of Beneficiary to withhold its consent on a subsequent occasion to a transfer not otherwise permitted by the provisions hereof; provided, however, that Larry and Virginia Gordon may, without the prior written consent of Beneficiary, transfer their interest in the Trust Estate for estate planning purposes to one or more limited liability companies, limited partnerships, trusts and/or their children, as long as Larry and Virginia Gordon maintain management control over the trust estate and over any such limited liability company, partnership or trust during the term of the Loan.

For the purpose of, and without limiting the generality of, the foregoing, the occurrence at any time of the following events without Beneficiary's prior written consent shall be deemed to be an unpermitted transfer of title to the Trust Estate and shall constitute an Event of Default under the Loan Instruments:

(a) any sale, conveyance, assignment, including any assignment for the benefit of creditors, or other transfer of, or the grant of a lien or security interest in, all or any part of the legal or equitable interest in the Trust Estate; or

(b) any transfer, assignment, sale, encumbrance or other distribution of any membership, general partnership or stock interest in Trustor, or any membership, partnership or stock interest in any member, partnership or corporate general partner of Trustor.

6.15 No Further Encumbrances. Trustor agrees not to create, incur, assume or suffer to exist any mortgage, deed of trust, security interest, pledge, lien, encumbrance, assignment by way of security, or other security arrangement securing debt, obligation, commitment, responsibility or liability of any person on the Property or the Leasehold Interest of the trustor in the Property, except the encumbrances created in these Loan Documents and/or other encumbrances created contemporaneously herewith in favor of Lender.

6.16 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, Trustor and Guarantor have executed this Deed of Trust as of the day and year first above written.

TRUSTOR:

GUARANTOR:

Valley Freightliner, Inc.

Larry Gordon
Larry Gordon

by: Larry Gordon
its: President

Virginia Gordon
Virginia Gordon

STATE OF WASHINGTON)
COUNTY OF KING) ss.

On this 21st day of January, 1999, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Larry Gordon and Virginia Gordon, to me known to be the individuals described and who executed the foregoing instrument, and acknowledged to me that they signed the said instrument as their free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Peggy Verza
Signature of Notary
Peggy Verza
Printed Name of Notary

NOTARY PUBLIC in and for
the State of Washington
My appointment expires: 12-29-00

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 25 day of January, 1999, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Larry Gordon, to me known to be the President of the corporation that executed the within instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and each on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Peggy Verzel
Signature of Notary
Peggy Verzel
Printed Name of Notary

NOTARY PUBLIC in and for
the State of Washington
My appointment expires: 6-29-00

Exhibit A

Legal Description

Lot 9, Hilde Commercial Facility Binding Site Plan No. 97-0361, approved November 25, 1998, recorded November 25, 1998 in Volume 13 of Short Plats, pages 186 and 187, under auditor's File No. 9811250022 and being a portion of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, Section 32, Township 34 North, Range 4 East, W.M.

Situate in the County of Skagit, State of Washington