

WHEN RECORDED RETURN TO:

Westward Financial Services Corp.
1500 Cornwall Avenue,
Bellingham, Wash. 98225
Attn: R. L. Hovde



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ISLAND TITLE CO.

B10000 ✓

Document Title: Deed of Trust, Security Agreement and Fixture Filing with Assignment of Leases and Rents

Grantor: Briar Development Company, a Washington general partnership

- Grantee:**
1. Horizon Bank, a Washington banking corporation
 2. Westward Financial Services Corp.

Legal Description: **Abbreviated Legal Description:**
PTN. GOV'T LOT 1, SEC 6, T34N, R4EWM, being TRACT A, Survey # 200001070083, & Lot 10, Northsound Commercial Park

Full Legal Description:
See Attached Exhibit "A"

Assessor's Tax Parcel Nos: 340406-1-077-0000, 4392-000-010-0006, 340406-0-008-0010

Reference Nos. of Documents Released or Assigned SKAGIT COUNTY WASHINGTON

Real Estate Excise Tax

JUN 08 2000

Amount Paid \$
Skagit Co. Treasurer
By *DC* Deputy

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

THIS DEED OF TRUST, SECURITY AGREEMENT AND FIXTURE FILING WITH ASSIGNMENT OF LEASES AND RENTS (“**Deed of Trust**”) is made as of May 25, 2000 by **BRIAR DEVELOPMENT COMPANY**, a Washington general partnership, as “**Grantor**”, whose address is P.O. Box 9704, Bellingham, Washington 98227-9704; to **WESTWARD FINANCIAL SERVICES CORP**, as “**Trustee**”, whose address is 1500 Cornwall Avenue, Bellingham, Wash. 98225 ; for the benefit of **HORIZON BANK**, a Washington banking corporation, doing business as **HORIZON BANK**, as “**Beneficiary**”, whose address is 211 E. Holly Street, Bellingham, Washington 98225.

ARTICLE 1

1. **Granting Clause.** Grantor irrevocably grants, bargains, sells and conveys to Trustee and its successors and assigns in trust, with power of sale and with right of entry and possession as provided herein, all Grantor’s estate, right, title, interest, claim and demand, now owned or hereafter acquired, in and to the following (the “**Property**”):

(a) The real property in Whatcom County, Washington, described in “**Real Property**”.

(b) All land lying in streets and roads adjoining the Real Property, and all access rights and easements pertaining to the Real Property.

(c) All the lands, tenements, privileges, reversions, remainders, irrigation and water rights and stock, oil and gas rights, royalties, minerals and mineral rights, all development rights and credits, air rights, hereditaments and appurtenances belonging or in anyway pertaining to the Real Property.

(d) All buildings, structures, improvements, fixtures, equipment and machinery and property now or hereafter attached to or used in connection with the use, occupancy or operation of the Real Property including, but not limited to, heating and incinerating apparatus and equipment, boilers, engines, motors, generating equipment, telephone and other communication systems, piping and plumbing fixtures, ranges, cooking apparatus and mechanical kitchen equipment, refrigerators, cooling, ventilating, sprinkling and vacuum cleaning systems, fire extinguishing apparatus, gas and electric fixtures, irrigation equipment, carpeting, underpadding, elevators, escalators, partitions, mantiles, built-in mirrors, window shades, blinds, screens, storm sash, awnings, furnishing of public spaces, halls and lobbies, and shrubbery and plants. All property mentioned in this subsection (d) shall be deemed part of the realty and not severable wholly or in part without materials injury to the Real Property.



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

(f) All of Grantor's rights to further encumber said Real Property for debt and all Grantor's rights to enter into any lease agreement which would create a tenancy that is or may become subordinate in any respect to any mortgage or deed of trust other than this Deed of Trust.

2. Collateral. The following described estate, property and rights of Grantor are also included as security for the performance of each covenant and agreement of Grantor contained herein and the payment of all sums of money secured hereby:

(a) All furniture, furnishing, appliances, machinery, vehicles, equipment and all other property of any kind now or hereafter located on the Property, used or intended to be used on the Property wherever actually located, or purchased with the proceeds of the Note (as defined herein), and all rights of Grantor as lessee of any property described in this Section 2 and subsection 1(d) above.

(b) All compensation, awards, damages, rights of action and proceeds (including insurance proceeds and any interest on any of the foregoing) arising out of or relating to a taking or damaging of the Property by reason of any public or private improvement, condemnation proceeding (including change of grade); fire, earthquake or other casualty, injury or decrease in the value of the Property.

(c) All returned premiums or other payments on any insurance policies pertaining to the Property and any refunds or rebates of taxes or assessments on the Property. 3/



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(d) All rights to the payment of money, accounts receivable, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all utility deposits), architectural and engineering plans, specifications and drawings, contract rights, governmental permits and licenses, and agreements and purchase orders which pertain to or are incidental to the design or construction of any improvements on the Property Grantor's rights under any payment, performance, or other bond in connection with construction of improvements on the Property, and all construction materials, supplies, and equipment delivered to the Property or intended to be used in connection with the construction of improvements on the Property wherever actually located.

e) All contracts and agreements pertaining to or affecting the Property including, but not limited to, management, operating and franchise agreements, licenses, trade names and trademarks.

f) All of Grantor's interest in and to the proceeds of the loan (the "**Loan**") evidenced by the Note (defined below), whether disbursed or not, any account into which Loan proceeds are deposited, and Grantor's own funds now or later held on deposit as equity funds or for payment of bills relating to the Property.

g) All loan commitments or other agreements, now or hereafter in existence, which will provide Grantor with proceeds to satisfy the Secured Obligations (defined below) and the right to receive the proceeds due under such commitments or agreements including refundable deposits and fees.

h) All books and records pertaining to any and all of the Property and the other collateral described above, including computer readable memory and any computer hardware or software necessary to access and process such memory.

i) All additions, accessions, replacements, substitutions, proceeds, and products of the Property described in this Section 2 of any of the Property, which is personal property.

The Property and all of the property and rights described in Sections 1 and 2 above are referred to collectively in this Deed of trust as the "**Collateral**".

3. Security Agreement. If any of the Collateral is determined to be personal property, Grantor as Debtor hereby grants to Beneficiary as Secured party a security interest in all such personal property to secure payment and performance of the Secured Obligations. This Deed of Trust constitutes a security agreement between Grantor and Beneficiary pursuant to the Uniform Commercial Code as adopted in the State of Washington, as now or hereafter amended, with respect to the Collateral, and any and all property affecting or related to the use and enjoyment of the Property, now or hereafter described in any Uniform Commercial Code Financing statement naming Grantor as Debtor and Beneficiary as Secured Party. The remedies of Beneficiary for any violation of the covenants, terms and 4/



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conditions of this Deed of Trust or any other Loan Document (defined below) shall include all remedies available to secured parties under the Uniform Commercial Code. Grantor agrees the filing of a financing statement in the records normally having to do with personal property shall not be construed as in anywise derogating from or impairing the intention of Grantor and Beneficiary that everything used in connection with the production of income from the Property that is the subject of this Deed of Trust and/or adapted for use therein and/or which is described or reflected in this Deed of trust is, and at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the real estate irrespective of whether (i) any such item is physically attached to the improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in any list filed with the Beneficiary, or (iii) any such item is referred to or reflected in any such financing statements so filed at any time.

4. Financing Statement. This Deed of Trust shall also constitute a financing statement filed for record in the real estate records as a fixture filing pursuant to the Uniform Commercial Code. This Deed of Trust may be given to secure an obligation incurred for the construction of improvements on the Property, including the acquisition of the Property, or to secure an obligation incurred to refinance an obligation incurred for the construction of improvements on the Property, including the acquisition of the Property.

5. Obligations Secured. The following obligations (“Secured Obligations”) are Secured by this Deed of Trust:

(a) Payment of the sum of **Eight Million Eight Hundred Ten Thousand and 00/100 Dollars (\$8,810,000)**, or so much thereof as may be advanced, with interest thereon according to the terms of a promissory note of even date herewith, payable to Beneficiary or order and made by Grantor, including all renewals, amendments, modifications, extensions and substitutions therefor (the “Note”). THE NOTE MAY CONTAIN PROVISIONS ALLOWING FOR CHANGES IN THE INTEREST RATE.

(b) Payment of any further sums now or hereafter advanced or loaned by Beneficiary to Grantor, or any of its successors or assigns, and payment of every other present and future obligation owing by Grantor to Beneficiary to any kind, and all renewals, modifications, and extensions thereof, including any interest, fees, costs, service charges, indemnifications and expenses connected with such obligations, regardless of whether such sums exceed the amount stated above in subparagraph (8a), if (i) the promissory note or other written document evidencing the future advance or loan or other obligation specifically states that it is secured by this Deed of Trust, or (ii) the advance, including costs and expenses incurred by Beneficiary, is made pursuant to the Note, this Deed of Trust or any other documents executed by Grantor evidencing, securing, or relating to the Loan, and/or the Collateral, whether executed prior to, contemporaneously with, or subsequent to this Deed of Trust (this Deed of Trust, the Note and all such other documents, including any construction



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or other loan agreement or any agreement evidencing an existing or future "swap transaction" (as referred to below), and all renewals, amendments, modifications or extensions thereof, are hereafter collectively referred to as the "Loan Documents"), together with interest thereon at the rate set forth in the Note, unless otherwise specified in the Loan Documents or agreed in writing.

(c) Performance of each agreement, term and condition set forth or incorporated by reference in the Loan Documents, as such may be amended.

(d) Payment and performance of the obligations of Grantor (or any other obligor under the Note) to Beneficiary under any ISDA (or successor) Master Agreement, or equivalent interest rate swap agreement, including all schedules thereto, confirmations of transactions thereunder, and documents, definitions and agreements incorporated therein by reference or relating thereto (and including, without limitation, any interest due thereon, fees, costs, and expenses connected therewith, and termination payments and indemnifications relating thereto), all whether currently existing or in the future, and in which this Deed of Trust is expressly referenced as a credit support documents ("**Swap Obligations**").

Notwithstanding any of the foregoing, the Secured Obligations shall not include the obligations of Grantor under any Certificate and Indemnity Agreement Regarding Building Laws and Hazardous Substances now or hereafter executed by Grantor (or any other person or entity) in connection with the loan evidenced by the Note.

ARTICLE II

1. **Assignment of Rents and Leases.** Grantor hereby absolutely and irrevocably assigns to Beneficiary all Grantor's interest in the Rents and Leases. The foregoing assignment is subject to the terms and conditions of any separate assignment of the Leases and/or Rents, whenever executed, in favor of Beneficiary and covering the Property. Grantor warrants it has made no prior assignment of the Rents or the Leases and will make no subsequent assignment (other than to Beneficiary) without the prior written consent of Beneficiary. At Beneficiary's request, Grantor shall execute and deliver to Beneficiary a separate assignment of rents containing such terms and conditions as Beneficiary may reasonably require.

(a) Unless otherwise provided in any separate assignment of the Leases and/or the Rents, and so long as Grantor is not in default under the Loan Documents, Grantor may collect the Rents as the Rents become due. Grantor shall use the Rents to pay normal operating expenses for the Property and sums due and payment required under the Loan Documents. No Rents shall be collected for a period subsequent to the current one-month rental period and first or last month's rent. Grantor's right to collect the Rents shall not constitute Beneficiary's consent to the use of cash collateral in any bankruptcy proceeding.



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(b) If Grantor is in default under this Deed of Trust or any other Loan Document, without notice to Grantor, Beneficiary, or its agents, or a court appointed receiver, may collect the Rents. In doing so, Beneficiary may (i) evict lessees for nonpayment of rent, (ii) terminate in any lawful manner any tenancy or occupancy, (iii) lease the Property in the name of the then owner on such terms as it may deem best, (iv) institute proceedings against any lessee for past due rent, and (v) do all other acts and things as Beneficiary deems necessary or desirable. The Rents received shall be applied to payment of the costs and expenses of collecting the Rents, including a reasonable fee to Beneficiary, a receiver or an agent, operating expenses for the Property and any sums due or payments required under the Loan Documents, in such order as Beneficiary may determine. Any excess shall be paid to Grantor; however, Beneficiary may withhold from any excess a reasonable amount to pay sums anticipated to become due which exceed the anticipated future Rents. Beneficiary's failure to collect or discontinuing collection at any time shall not in any manner affect the subsequent enforcement by Beneficiary of its rights to collect the Rents. The collection of the Rents by or for Beneficiary shall not cure or waive any default under the Loan Documents. Any Rents paid to Beneficiary or a receiver shall be credited against the amount due from the lessees under the Leases. In the event any lessee under a lease becomes the subject of any proceeding under the Bankruptcy Code or any other federal, state or local statute which provides for the possible termination or rejection of any Lease assigned hereby, Grantor covenants and agrees that in the event any of the Leases are so rejected, no damages settlement shall be made without the prior written consent of Beneficiary; any check in payment of damages for rejection or termination of any such Lease will be made payable both to the Grantor and Beneficiary; and Grantor hereby assigns any such payment to Beneficiary and further covenants and agrees that upon request of Beneficiary, it will duly endorse to the order of Beneficiary any such check, the proceeds of which will be applied to any portion of the indebtedness secured hereunder in such manner as Beneficiary may elect. If Grantor is in default, Grantor hereby expressly authorizes and directs all present and future tenants or the property to pay any and all rents due Grantor pursuant to the leases directly to Beneficiary or such nominee as Beneficiary may designate by written notice delivered to and received by such tenants. Grantor agrees any tenants who make payments directly to Beneficiary or its designee after receipt of such a notice are hereby expressly relieved of any and all duty, liability or obligation to grantor in respect of all payments so made.

(c) Regardless of whether or not Beneficiary, in person or by agent, takes actual possession of the Property or any part thereof, Beneficiary is not and shall not be deemed to be: (i) "a mortgagee in possession" for any purpose; (ii) responsible for performing any of the obligations of the lessor under any Lease; (iii) responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property; or (iv) liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it. In exercising its rights under this Section 1 Beneficiary shall be liable only for the proper application of and accounting for the rents collected by Beneficiary or its agents.



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2. **Leases.** Grantor shall fully comply with all of the terms, conditions and provisions of the Leases so that the same shall not become in default and do all things necessary to preserve the Leases in force. Unless otherwise agreed in writing by beneficiary, without Beneficiary's prior written consent, Grantor will not enter into any lease (i) on a form of Lease not previously approved by Beneficiary, (ii) for a term of three (3) years or more, or (iii) containing an option or right to purchase all or any part of the Collateral in favor of any lessee. With respect to any Lease of the whole or any part of the Property involving an initial term of three (3) years or more, Grantor shall not, without the prior written consent of Beneficiary, (a) permit the assignment or subletting of all part of the lessee's rights under the Lease unless the right to assign or sublet is expressly reserved by the lessee under the Lease, (b) modify or amend the Lease for a lesser rental or term, or (c) accept surrender of the Lease or terminate the Lease except in accordance with the terms of the Lease providing for termination in the event of a default. Any proceeds or damages resulting from a lessee's default under any Lease, at beneficiary's option, shall be paid to Beneficiary and applied against sums owed under the Loan Documents even though such sums may not be due and payable. Except for real estate taxes and assessments, without beneficiary's prior written consent, Grantor shall not permit any lien to be created against the Property which may be or may become prior to any Lease. If the Property is partially condemned or suffers a casualty, Grantor shall promptly repair and restore the Property in order to comply with the Leases.

ARTICLE III

1. **Non-Agricultural use.** Grantor represents and warrants to Beneficiary that neither the Property nor any other Collateral is used principally or primarily for agriculture or farming purposes.

2. **Performance of Obligations.** Grantor shall promptly and timely pay all sums due pursuant to the Loan Documents, strictly comply with all the terms and conditions of the Loan Documents, and perform each Secured obligation in accordance with its terms.

3. **Warranty of Title.** Grantor warrants that it has good and marketable title to an indefeasible fee simple estate in the Property, and good marketable title to the personal property Collateral, subject to no liens, encumbrances, easements, assessments, security interests, claims or defects of any kind prior or subordinate to the lien of this Deed of Trust, except those listed in Beneficiary's title insurance policy or approved by Beneficiary in writing (the "Exceptions") and real estate taxes and assessments for the current year. Grantor warrants the Exceptions and the real estate taxes and assessments are not delinquent or in default, and grantor has the right to convey the Property to Trustee for the benefit of Beneficiary, and the right to grant a security interest in the personal property Collateral. Grantor will warrant and defend title to the Collateral and will defend the validity and priority of the lien of this Deed of Trust and the security interests granted herein against any claims or demands.



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4. Prohibited Liens.

(a) Subject to Grantor's rights under subsection (b) below, Grantor shall not permit any governmental or statutory liens (including taxes, mechanic's or materialmen's liens) to be filed against the Collateral except for real estate taxes and assessments not yet due and liens permitted by the Loan Documents or approved by Beneficiary in writing.

(b) Grantor will have the right to contest in good faith by appropriate legal or administrative proceeding the validity of any prohibited lien, encumbrance or charge so long as (i) no default exists under the Loan Documents, (ii) Grantor first deposits with Beneficiary a bond or other security satisfactory to Beneficiary in the amount reasonably required by Beneficiary, but not more than the amounts specified in RCW 60.04.161, as now or hereafter amended; (iii) Grantor immediately commences its contents of such lien, encumbrance or charge, applies to court for a show cause as provided for in RCW 60.04.221 (9), as now or hereafter amended, and continuously pursues the contest in good faith and with due diligence; (iv) foreclosure of the lien, encumbrance or charge is stayed; and (v) Grantor pays any judgement rendered for the lien claimant or other third party within ten (10) days after the entry of the judgment. If the contested item is a mechanic's or materialmen's lien, Grantor will furnish Beneficiary with an endorsement to its title insurance policy, which insures the priority of this Deed of Trust over the lien being contested. Grantor will discharge or elect to contest and post an appropriate bond or other security within twenty (20) days of written demand by Beneficiary.

5. Payments of Taxes and Other Encumbrances. Grantor shall pay the real estate taxes and any assessments or ground rents at least seven (7) days prior to delinquency unless otherwise provided for in the reserve account described in Section 15 below. All other encumbrances, charges and liens affecting the Collateral, including mortgages and deeds of trust, whether prior to or subordinate to the lien of this Deed of Trust, shall be paid when due and shall not be in default. On request Grantor shall furnish evidence of payment of these items.

6. Maintenance – No Waste. Grantor shall protect and preserve the Collateral and maintain it in good condition and repair. Grantor shall do all acts and take all precautions, which, from the character and use of the Collateral, are reasonable, proper, or necessary to so maintain, protect, and preserve the Collateral. Grantor shall not commit or permit any waste of the Collateral.

7. Alterations, Removal and Demolition. Unless otherwise agreed in writing by Beneficiary, Grantor shall not structurally alter, remove, or demolish any building or improvements on the Property without Beneficiary's prior written consent. Grantor shall not remove any fixture or other item of property which is part of the Collateral without Beneficiary's prior written consent unless the fixture or item of property is replaced by an article of equal suitability, owned by Grantor free and clear of any lien or security interest.



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8. Completion, Repair and Restoration. Grantor shall promptly complete or repair and restore in good workmanlike manner any building or improvements on the Property which may be constructed or damaged or destroyed and shall pay all costs incurred thereof. Prior to commencement of any construction Grantor shall submit the plans and specifications for Beneficiary's approval and furnish evidence of sufficient funds to complete the work.

9. Compliance with Laws. Grantor shall comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the Collateral, including, without limitation, all applicable requirements of the Fair Housing Act of 1968 (as amended) and the Americans With Disabilities Act of 1990 (as the same may be amended from time to time), and shall not commit or permit any act upon or concerning the collateral in violation of any such laws, ordinances, regulations, covenants, conditions, and restrictions. Grantor shall defend, indemnify and hold Beneficiary harmless from and against all liability threatened against or suffered by Beneficiary by reason of a breach by Grantor of the foregoing representations, warranties, covenants and agreements. The foregoing indemnity shall include the cost of all alterations to the Collateral (including architectural, engineering, legal and accounting costs), all fines, fees and penalties and all legal and other expenses (including attorneys' fees) incurred in connection with the Property being in violation of any such laws, ordinances, regulations, covenants, conditions and restrictions. If Beneficiary or its designee shall become the owner of or acquire an interest in or rights to the Collateral by foreclosure or deed in lieu of foreclosure of this Deed of Trust or by other means, the foregoing indemnification obligation shall survive such foreclosure or deed in lieu of foreclosure or other acquisition of the collateral. Notwithstanding the preceding sentence, Grantor shall have no obligation to defend, indemnify or hold Beneficiary harmless from any liability arising from or out of the activities of Beneficiary or its agents with respect to the Collateral on or after the transfer of the Collateral to Beneficiary pursuant to foreclosure proceedings or in lieu thereof.

10. Impairment of Collateral. Grantor shall not, without Beneficiary's prior written consent, change the present use or the intended use of the Property, change the general nature of the occupancy of the Property, initiate, acquire or permit any change in any public or private restrictions (including without limitation a zoning reclassification) limiting the uses which may be made of the Collateral, or take or permit any action which would impair the Collateral or Beneficiary's lien or security interest in the Collateral.

11. Inspection of Collateral. Beneficiary and/or its representative may enter on to and inspect the Collateral (including, if Beneficiary has reasonable grounds to do so, taking, and removing soil, groundwater, and other samples) at reasonable times after reasonable notice. If any of the Collateral is in the possession of a third party, Grantor authorizes the third party to permit Beneficiary and/or its representatives to have access to and perform inspections of the Collateral and to respond fully and freely to Beneficiary's



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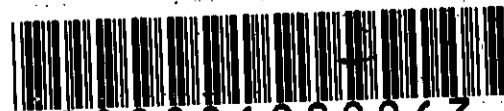
and/or its representative's requests for information concerning the Collateral. Grantor agrees that Beneficiary neither has nor undertakes any duty or obligation to examine or inspect the Collateral or any records, books or papers relating thereto. In the event that beneficiary inspects the Collateral or examines, audits, or copies any records, books or papers relating thereto, the Beneficiary will be acting solely for the purposes of protecting the Beneficiary's security and Beneficiary's rights under this Deed of Trust and the other Loan Documents. Neither the Grantor nor any other party is entitled to rely on any inspection or other inquiry by Beneficiary and/or its representatives. Neither Beneficiary nor its representatives owes a duty to care to protect the Grantor or any other party against, or to inform the Grantor or any other party of, any adverse condition that may be observed or discovered as affecting the Collateral or the Grantor's or such third party's business. If Beneficiary and/or its representatives believe it has a duty or obligation to disclose any report or finding made as a result of, or in connection with any inspection of the Collateral, then Beneficiary and/or its representative may make such disclosure. Any failure by Grantor or a third party to permit Beneficiary to exercise its rights herein, following five (5) days written demand from Beneficiary, shall entitle Beneficiary without further notice to Grantor to make ex parte application to the court of applicable jurisdiction where the Collateral Beneficiary seeks to inspect is located for immediate issuance of any order, without bond, granting specific performance of Beneficiary's rights to enter on and inspect the Collateral.

12. Grantor's Defense of Collateral. Grantor shall appear in and defend any action or proceeding which may affect the Collateral or the rights or powers of Beneficiary or Trustee under this Deed of Trust.

13. Beneficiary's Right to Protect Collateral. Beneficiary may commence, appear in, and defend any action or proceeding which may affect the Collateral or the rights or powers of Beneficiary or Trustee under this Deed of Trust. Beneficiary may pay, purchase contest or compromise any encumbrance, charge or lien not listed as an Exception which in its judgment appears to be prior or superior to the lien of this Deed of Trust. If Grantor fails to make any payment or do any act required under the Loan Documents, Beneficiary, without any obligation to do so and without releasing Grantor from any obligations under the Loan Documents, may make the payment or cause the act to be performed in such manner and to such extent as beneficiary may deem necessary to protect the collateral. Beneficiary is authorized to enter upon the Property for such purposes. In exercising any of these powers beneficiary may incur such expenses, in its absolute discretion, it deems necessary.

14. Hazardous Substances.

(a) Grantor represents and warrants to Beneficiary, to the best of Grantor's knowledge after due and diligent inquiry, no hazardous or toxic waste or substances are being stored on the Property or any adjacent property or have any such waste or substances been stored or used in, on, under, over or about the Property or any adjacent property prior to



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or during Grantor's ownership, possession or control of the Property, other than the use or storage of hazardous or toxic waste or substances generally used in the ordinary course of operating, maintaining or developing properties such as the Property, all of which Grantor covenants have and will be used, stored and disposed of in accordance with commercially reasonable practices and all applicable federal, state and local laws, regulations and ordinances. Grantor shall provide written notice to Beneficiary immediately upon Grantor becoming aware that the Property or any adjacent property is being or has been contaminated with hazardous or toxic waste or substances. Grantor will not cause nor permit any activities on the Property, which directly or indirectly could result in the Property or any other property becoming contaminated with hazardous or toxic waste or substances. For purposes of this Deed of Trust, the term "**hazardous or toxic waste or substances**" means any chemical, substance or material classified or designated as hazardous, toxic or radioactive, or similar term, and now or hereafter regulated under any applicable federal, state or local statute, regulation, ordinance or requirement, now or hereafter in effect, pertaining to environmental protection, contamination or cleanup.

(b) Grantor shall comply, at Grantor's expense, with all statutes, regulations and ordinances which apply to Grantor or the Collateral, and with all orders, decrees or judgments of governmental authorities or courts having jurisdiction which Grantor is bound by, relating to the use, collection, storage, treatment, control, removal or cleanup of hazardous or toxic substances in, on, under, over or about the property or in, on, under, over or about any adjacent property that becomes contaminated with hazardous or toxic substances as a result of construction, operations or other activities on, or the contamination of, the Property. Beneficiary may, but is not obliged to, enter upon the Property to inspect it for compliance and to take such actions and incur such costs and expenses to effect such compliance as it deems advisable to protect its interest as Beneficiary; and whether or not Grantor has actual knowledge of the existence of hazardous or toxic substances in, on, under, over or about the Property or any adjacent property as of the date hereof, Grantor shall reimburse Beneficiary on demand for the full amount of all costs and expenses incurred by Beneficiary prior to Beneficiary acquiring title to the Property through foreclosure or deed in lieu of foreclosure, in connection with such compliance activities.

(c) Grantor's obligations under this Section 14 are unconditional and shall not be limited by a non-recourse or other limitations of liability provided for in this Deed of Trust or any other Loan Document.

15. Reserve Account.

(a) Subject to subsection (d) below, if beneficiary so requires, Grantor shall pay to Beneficiary monthly, together with and in addition to any payments due under the Note, a sum, as estimated by Beneficiary, equal to the ground rents, if any, the real estate taxes and assessments next due on the Property and the premiums next due on insurance policies required under the Loan Documents, less all sums already paid therefor, divided by the



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number of months to elapse before two (2) months prior to the date when the ground rents, real estate taxes, assessments, and insurance premiums will become delinquent. The monthly reserve accounts payments and any other payments due under the Note shall be paid in a single payment and applied by Beneficiary, at its option, in the following order: (1) ground rents, real estate taxes, assessment and insurance premiums, (2) expenditures made pursuant to the Loan Documents and interest thereon, (3) interest on the Note, and (4) principal due on the Note. Grantor shall promptly deliver to Beneficiary all bills and notices pertaining to the ground rents, taxes, assessments, and insurance premiums.

(b) The reserve account is solely for the protection of Beneficiary. Beneficiary shall have no responsibility except to credit properly the sums actually received by it. No interest will be paid on the funds in the reserve account and Beneficiary shall have no obligation to deposit the funds in an interest-bearing account. Upon assignment of this Deed of Trust by Beneficiary, any funds in the reserve account shall be turned over to the assignee and any responsibility of Beneficiary with respect thereto shall terminate. Each transfer of the Property shall automatically transfer to the grantee all rights of Grantor to any funds in the reserve account.

(c) If the total of the payments to the reserve account exceeds the amount of payments actually made by Beneficiary, plus such amounts as have been reasonably accumulated in the reserve account toward payments to become due, such excess may, at Beneficiary's election, be (1) credited by Beneficiary against sums then due and payable under the Loan Documents, or (2) refunded to Grantor as its name appears on the records of Beneficiary. If, however, the reserve account does not have sufficient funds to make the payments when they become due, Grantor shall pay to beneficiary the amount necessary to make up the deficiency within fifteen (15) days after written notice to Grantor. If this Deed of Trust is foreclosed or if beneficiary otherwise acquires the Collateral, the Beneficiary shall, at the time of commencement of the proceedings or at the time the collateral is otherwise acquired, apply the remaining funds in the reserve account, less such sums as will become due during the pendency of the proceedings, against the sums due under the Loan Documents and/or to make payments required under the Loan Document.

(d) Unless required by the terms of Beneficiary's loan commitment or any other Loan Document, Grantor shall not be required to pay monthly reserve account payments so long as there has been no more than four (4) late payments due under the Note throughout the term of the Loan and there is no other default under the Loan and so long as Grantor remains in ownership of the Collateral, provided receipted bills evidencing the payment of all taxes and/or assessments and insurance premiums are exhibited to Beneficiary within fifteen (15) days after Beneficiary's request therefor. Upon any change in any of these conditions, Beneficiary may, at its option then or thereafter exercised, require the payment of reserves pursuant to this Section 15.



16. Repayment of Beneficiary's Expenditures. Grantor shall pay within ten (10) days after written notice from Beneficiary all sums expended by Beneficiary and all costs and expenses incurred by Beneficiary in taking any actions pursuant to the Loan Documents including reasonable attorneys' fees, accountants' fees, appraisal and inspection fees, and the costs for title reports. If any laws or regulations are passed subsequent to the date of this Deed of Trust which require Beneficiary to incur out-of-pocket expenses in order to maintain, modify, extend or foreclose this Deed of Trust, revise the terms of the Loan or consent to an Accelerating Transfer (as defined below), Grantor shall reimburse Beneficiary for such expenses within fifteen (15) days after written notice from Beneficiary. Expenditures by Beneficiary shall bear interest from the date of such advance or expenditure at the default interest rate in the Note, shall constitute advances made under this Deed of Trust and shall be secured by and have the same priority as the lien of this Deed of Trust. If Grantor fails to pay any such expenditures, costs and expenses and interest thereon, Beneficiary may, at its option, without foreclosing the lien of this Deed of Trust, commence an independent actions against Grantor for the recovery of the expenditures and/or advance any undisbursed Loan proceeds to pay the expenditures.

17. Accelerating Transfers.

(a) **"Accelerating Transfer"** means any sale, contract to sell, conveyance, encumbrance, transfer of full possessory rights, or other transfer for all or any material part of the Collateral or any interest in it, whether voluntary, involuntary, by operation of law or otherwise and whether or not for record or for consideration. If Grantor is a Corporation, "Accelerating Transfer" also means any transfer or transfers or share possessing, in the aggregate, more than fifty percent (50%) of the voting power. If Grantor is a partnership, "Accelerating Transfer" also means withdrawal or removal of any general partner, dissolution of the partnership under Washington law, or any transfer or any transfers of, in the aggregate, more than fifty percent (50%) of the partnership interests. If Grantor is a limited liability company or other form of limited liability entity, "Accelerating Transfer" also means any transfer or transfers of membership or management units, shares or other forms of interest in such entity, possessing, in the aggregate, more than fifty percent (50%) of the voting power. If Grantor is the majority owner of a business, either through ownership of shares of a corporation or interest in a partnership, limited liability company or other entity, which occupies seventy-five percent (75%) or more of the improvements on the Property, "Accelerating Transfer" also means any sale, contract to sell, or other transfer of the business or substantial assets of the business, other than in the ordinary course, or the failure of the business to continue to occupy the Property. Notwithstanding any of the foregoing, so long as no default has occurred and is continuing, it shall not be an Accelerating Transfer and Beneficiary's prior consent shall not be required for (i) transfers of interest in Grantor between the current partners in Grantor (i.e., Donald E. Haggen and Richard R. Haggen), or (ii) transfers of interests in Grantor to trusts created for the benefit of either of the general partners in Grantor or members of their immediate families, such as brothers, sisters, spouses or children, or (iii) transfers of interests to Grantor to members of the immediate families of



the current partners in Grantor, such as brothers, sisters, spouses or children.

(b) Grantor acknowledges beneficiary is taking actions in reliance on the expertise, skills, experience and reliability of Grantor, and the obligations secured hereby include material elements similar in nature to a personal service contract or ownership interest. In consideration of Beneficiary's reliance, Grantor agrees that Grantor shall not make any Accelerating Transfer without Beneficiary's prior written consent, which Beneficiary may withhold in its sole discretion. If Beneficiary consents, it may charge the Grantor as a fee as consideration for such consent and condition its consent on such changes to the terms and conditions of the Note and other Loan Documents as Beneficiary may require, including without limitation increasing the interest rate on the Note. Grantor shall pay Beneficiary's actual costs incurred in making its decision to consent to an Accelerating Transfer, including but not limited to the cost of credit reports, an updated appraisal of the Property, an updated environmental assessment and documentation. If any Accelerating Transfer occurs without Beneficiary's prior written consent, Beneficiary in its sole discretion may declare an immediate default and all sums secured by this Deed of Trust to be immediately due and payable, and Beneficiary may invoke any rights and remedies provided herein. This provision shall apply to each and every accelerating Transfer regardless of whether or not Beneficiary has consented or waived its rights, whether by action or nonaction, in connection with any previous Accelerating Transfer(s).

(c) If all or any part of this Section 17 relevant to a particular Accelerating Transfer is unenforceable according to the law in effect at the time of the Accelerating Transfer, then Grantor shall reimburse Beneficiary for its actual costs incurred in processing the Accelerating Transfer on its records, including but not limited to the cost of modifications of Loan Documents, an appraisal, and obtaining relevant credit and financial information.

18. Release of parties or Collateral.

Without affecting the obligations of any party under the Loan Documents and without affecting the lien of this Deed of Trust and Beneficiary's security interest in the collateral, Beneficiary and/or Trustee may, without notice (a) release all or any Grantor and/or any other party now or hereafter liable for any of the Secured Obligations (including guarantors), (b) release all or any part of the Collateral, (c) subordinate the lien of this Deed of Trust or Beneficiary's security interest in the Collateral, (d) take and/or release any other security for or guarantees of the Secured Obligations, (e) grant an extension of time for performance of the Secured Obligations, (f) modify, waive, forbear, delay or fail to enforce any of the Secured Obligations, (g) sell or otherwise realize on any other security or guaranty prior to, contemporaneously with or subsequent to a sale of all or any part of the Collateral, (h) make advances pursuant to the Loan Documents including advances in excess of the Note amount, (i) consent to the making of any map or plat of the Property, and (j) join in the grant of any easement on the Property. Any subordinate lienholder shall be subject to all such releases, extensions or modifications without notice to or consent from the subordinate lienholder.



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Grantor shall pay any Trustee's, attorneys', title insurance, recording, inspection or other fees or expenses incurred in connection with release of Collateral, the making of a map, plat or the grant of an easement.

ARTICLE IV

1. Insurance.

(a) Grantor shall maintain such insurance on the Collateral as may be required from time to time by Beneficiary, with premiums prepaid, providing replacement cost coverage and insuring against loss by fire and such other risks covered by extended coverage insurance, and such other perils and risks as Beneficiary may require from time to time, including earthquake, loss of rents and business interruption. Grantor also shall maintain comprehensive general public liability insurance and if the Property is located in a designated flood hazard area, flood insurance. All insurance shall be with companies satisfactory to Beneficiary and in such amounts and with such coverages as Beneficiary may require from time to time, with lender's loss payable clauses in favor of and in form satisfactory to Beneficiary. Prior to the expiration of the term of any insurance policy, Grantor shall furnish Beneficiary with written evidence of renewal or issuance of a satisfactory replacement policy. If requested Grantor shall deliver copies of all policies to Beneficiary. Each policy of insurance shall provide beneficiary with no less than thirty (30) days prior written notice of any cancellation, expiration, non-renewal or modification.

(b) In the event of foreclosure of this Deed of Trust all interest of Grantor in any insurance policies pertaining to the collateral and in any claims against the policies and in any proceeds due under the policies shall pass to Beneficiary.

(c) If under the terms of any Lease the lessee is required to maintain insurance of the type required by the Loan Documents and if the insurance is maintained for the benefit of both the lessor and Beneficiary, Beneficiary will accept such policies provided all of the requirements of Beneficiary and the Loan Documents are met. In the event the lessee fails to maintain such insurance, Grantor shall promptly obtain such policies as are required by the Loan Documents.

(d) If Grantor fails to maintain any insurance required of it by Beneficiary, or fails to pay any premiums with respect to such insurance, Beneficiary may obtain such replacement insurance as it deems necessary or desirable, or pay the necessary premium on behalf of Grantor, and any sums expended by Beneficiary in so doing shall be added to the principal balance of the Note and bear interest at the default interest rate set forth in the Note.



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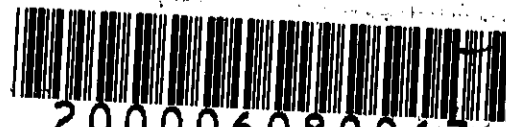
2. Damages and Condemnation and Insurance Proceeds.

(a) Grantor hereby absolutely and irrevocably assigns to beneficiary, and authorizes the payor to pay the Beneficiary, the following claims, causes of action, awards, payments and rights to payment: (i) all awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation or taking for public or private use which affects all or part of the collateral or any interest in it; (ii) all other awards, claims and causes of action, arising out of any warranty affecting all or any part of the Collateral, or for damage or injury to or decrease in value of any or part of the Collateral or any interest in it; (iii) all proceeds of any insurance policies payable because of loss sustained to all or part of the Collateral; and (iv) all interest which may accrue or any of the foregoing.

(b) Grantor shall immediately notify Beneficiary in writing if: (i) any damage occurs or any injury or loss is sustained in the amount of \$25,000 or more to all or part of the collateral, or any action or proceeding relating to any such damage, injury or loss is commenced; or (ii) any offer is made, or any action or proceeding is commenced, which relates to any actual or proposed condemnation or taking of all or part of the collateral. If Beneficiary chooses to do so, it may in its own name appear in or prosecute any action or proceeding to enforce any cause of action based on warranty, or for damage, injury or loss to all or part of the Collateral, and it may make any compromise or settlement of the action or proceeding. Beneficiary, if it so chooses, may participate in any action or proceeding relating to condemnation or taking of all or part of the Collateral, and may join grantor in adjusting any loss covered by insurance.

(c) All proceeds of these assigned claims, other property, and rights which Grantor may receive or be entitled to shall be paid to Beneficiary. In each instance, Beneficiary shall apply those proceeds first toward reimbursement of all of Beneficiary's costs and expenses of recovering the proceeds, including attorneys' fees.

(d) If, in any instance, each and all of the following conditions are satisfied in Beneficiary's reasonable judgment, Beneficiary shall permit Grantor to use the balance of the proceeds ("**Net Claims Proceeds**") to pay costs of repairing or reconstructing the collateral in the manner described below: (i) the plans and specifications, cost breakdown, construction contract, construction schedule, contractor and payment and performance bond for the work of repair or reconstruction must all be acceptable to Beneficiary; (ii) Beneficiary must receive evidence satisfactory to it that after repair or reconstruction, the Collateral will be at least as valuable as it was immediately before the damage or condemnation occurred; (iii) the Net Claims proceeds must be sufficient in Beneficiary's determination to pay for the total cost of repair or reconstruction, including all associated development costs and interest projected to be payable on the Note until the repair or reconstruction is complete; or Grantor must provide its own funds in an amount equal to the difference between the net Claims



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Proceeds and a reasonable estimate, made by Grantor and found acceptable by Beneficiary, of the total cost of repair or reconstruction; (iv) Beneficiary must receive evidence satisfactory to it that all Leases which it may find acceptable will continue after the repair or reconstruction is complete; (v) Beneficiary has received evidence satisfactory to it, that reconstruction and/or repair can be completed at least three (3) months prior to the date the Note secured by this Deed of Trust is due and payable; and (vi) no default under any of the Loan Documents shall have occurred and be continuing. If the foregoing conditions are met to Beneficiary's satisfaction, Beneficiary shall hold the Net Claims Proceeds and any funds which Grantor is required to provide and shall disburse them to grantor to pay costs of repair or reconstruction upon presentation of evidence reasonably satisfactory to Beneficiary that repair or reconstruction has been completed satisfactorily and lien-free. However, if Beneficiary finds that one or more of the conditions are not satisfied, it may apply the Net Claims proceeds to pay or prepay some or all of the Note.

ARTICLE V

1. Default-Remedies.

(a) Grantor will be in default under this Deed of Trust upon the occurrence of any one or more of the following events: (i) any payment is not made when due under the Note or any other Secured Obligation, this Deed of Trust or any other Loan Document; (ii) there is a default under, a breach of, or failure to perform any other covenant, agreement or obligation to be performed under the Note or any other Secured Obligation, this Deed of Trust or any other Loan Document, or under any guaranty of all or any part of the Secured Obligations; (iii) any representation or warranty contained in this Deed of Trust or any other Loan Document or any financial information furnished to Beneficiary in connection with the Loan, proves to be false or misleading in any material respect, or Grantor's representations shall cease to be true, whether or not true when made, and as a result beneficiary reasonably believes that Grantor's financial condition or Grantor's ability to pay its debts as they become due will thereby be materially impaired; (iv) Grantor defaults under any lease or other contract or agreement relating to the Collateral, and such default is not cured within the applicable cure period, if any; (v) Grantor, or the maker of the Note if different from Grantor, is in default with respect to any other loan or business or financial accommodation from Beneficiary to Grantor and/or such other borrower; (vi) Grantor, any maker of the Note if different from Grantor, or any guarantor of the Loan fails to pay his, her or its debts generally as they become due, or files a petition or action for relief under any bankruptcy, reorganization or insolvency laws or makes an assignment for the benefit of creditor; or (vii) an involuntary petition is filed against Grantor, any maker of the Note if different from Grantor, or any guarantor of the Loan under any bankruptcy, reorganization or other insolvency laws, or a custodian, receiver or trustee is appointed to take possession, custody or control of the Collateral or any other properties or assets of Grantor, or any maker of the Note if different from Grantor, or of any guarantor of the Loan, and such petition or appointment is not set aside, withdrawn or dismissed within thirty (30) days from the date of filing or appointment.



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(b) In the event of a default Beneficiary may declare the Secured Obligations, including the Loan and all other indebtedness evidenced by the Note or any other Loan Documents, and applicable law including foreclosure of this Deed of Trust judicially as a mortgage or non-judicially pursuant to the power of sale. Beneficiary's exercise of any of its rights and remedies shall not constitute a waiver or cure of a default. Beneficiary's failure to enforce any default shall not constitute a waiver of the default or any subsequent default. In the event of foreclosure, the cost of the title premium for the trustee's sale guarantee (or equivalent title policy or report) shall be paid for by Grantor. If the Loan Documents are referred to an attorney for enforcement or preservation of Beneficiary's rights or remedies, whether or not suit is filed or any proceedings are commenced, grantor shall pay all Beneficiary's costs and expenses including trustee's and attorneys' fees (including attorneys' fees for any appeal, bankruptcy proceeding or any other proceeding), accountants' fees, appraisal and inspection fees and cost of title report.

2. Notice and Opportunity to Cure. Notwithstanding any other provision of this Deed of Trust, Beneficiary shall not accelerate the maturity of one or more of the Secured Obligations (a) because of a monetary default (defined below) by Grantor unless Grantor fails to cure the default within ten (10) days of the date of which Beneficiary mails or delivers written notice of the default to Grantor, or (b) because of a non-monetary default (defined below) by Grantor unless Grantor fails to cure the default within thirty (30) days of the date on which beneficiary mails or delivers written notice of the default to Grantor. For purposes of this Deed of Trust, the term "**monetary default**" means a failure by Grantor to make any payment required of it pursuant to the Note or any other Loan Document, and the term "**non-monetary default**" means a failure by Grantor or any other person or entity to perform any obligation contained in the Note or any other Loan Document, other than the obligation to make payments provided for in the Note or any other Loan Document. If a non-monetary default is capable of being cured and the cure cannot reasonably be completed within the thirty (30) day cure period, the cure period shall be extended up to ninety (90) days so long as Grantor has commenced action to cure within the thirty (30) day cure period, and in Beneficiary's opinion, Grantor is proceeding to cure the default with due diligence. None of the foregoing shall be construed to obligate Beneficiary to forebear in any other manner from exercising its remedies and Beneficiary may pursue any other rights or remedies which Beneficiary may have because of a default.

3. Cumulative Remedies. To the fullest extent allowed by law, all Beneficiary's and Trustee's rights and remedies specified in the Loan Document (including this Deed of Trust) are cumulative, not mutually exclusive and not in substitution for any rights or remedies available at law or in equity. Without waiving its rights in the Collateral, Beneficiary may proceed against Grantor or may proceed against other security or guaranty for the Secured Obligations, in such order and manner as Beneficiary may elect. Except where prohibited by law, the commencement of proceedings to enforce a particular remedy shall not preclude the commencement of other proceedings to enforce a different remedy.



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4. Entry. After a default, Beneficiary, in person, by agent or by court appointed receiver, may enter, take possession of, manage and operate all or any part of the Collateral, and may also do any and all other things in connection with those actions that Beneficiary may consider necessary and appropriate to protect the security of this Deed of Trust, including taking and possessing all of Grantor's or the then owner's books and records; entering into, enforcing, modifying, or canceling leases on such terms and conditions as beneficiary may consider proper; obtaining and evicting tenants; fixing or modifying Rents; collecting and receiving any payment of money owing to Grantor; completing any unfinished construction; and/or contracting for and making repairs and alterations. Grantor hereby irrevocably constitute and appoints beneficiary as its attorney-in-fact to perform such acts and execute such documents as Beneficiary in its sole discretion may consider to be appropriate in connection with taking these measures. Although the foregoing power of attorney is effective immediately, Beneficiary shall not exercise the power until the occurrence of a default.

5. Appointment of Receiver. In the event of a default, Grantor consents to, and Beneficiary, to the fullest extent permitted by applicable law, shall be entitled, without notice, bond or regard to the adequacy of the collateral, to the appointment of a receiver for the Collateral. The receiver shall have, in addition to all the rights and powers customarily given to and exercised by a receiver, all the rights and powers granted to Beneficiary by the Loan Documents. The receiver shall be entitled to receive a reasonable fee for management of the Property. If Grantor is an occupant of the property, Beneficiary has the right to require Grantor to pay rent at fair market rates and the right to remove Grantor from Property if Grantor fails to pay rent.

6. Sale of Property After Default. Following a default and the foreclosure of this Deed of Trust, either judicially or non-judicially, the Collateral may be sold separately or as a whole, at the option of Beneficiary. In the event of a Trustee's sale of the Collateral pursuant to the power of sale granted herein, Beneficiary hereby assigns its security interest in the personal property collateral to the trustee. Beneficiary may also realize on the personal property Collateral in accordance with the remedies available to secured parties under the Uniform Commercial Code or at law. In the event of a trustee's sale, Grantor, and the holder of any subordinate liens or security interest with actual or constructive notice hereof, waive all equitable, statutory or other right they may have to require marshaling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein, or to direct the order in which any of the collateral will be sold in the event of any sale under this Deed of Trust or foreclosure in the inverse order of alienation.

7. Foreclosure of Lessee's Rights-Subordination. Beneficiary shall have the right, at its option, to foreclose this Deed of Trust subject to the rights of any lessees of the Property. Beneficiary's failure to foreclose against any lessee shall not be asserted as a claim

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against Beneficiary or as a defense against any claim by Beneficiary in any action or proceeding. Beneficiary at any time any subordinate this Deed of Trust to any or all of the Leases except that Beneficiary shall retain its priority claim to any condemnation or insurance proceeds.

8. Repairs During Redemption. In the event of a judicial foreclosure the purchaser during any redemption period may make such repairs and alterations to the Property as may be reasonably necessary for the proper operation, care, preservation, protection and insuring of the Property. Any sums so paid, together with interest from the date of the expenditure at the rate provided in the judgment, shall be added to the amount required to be paid for redemption of the Property.

ARTICLE VI

1. Additional Security Documents. Grantor shall within fifteen (15) days after request by Beneficiary execute and deliver any financing statement, renewal, affidavit, certificate, continuation statement, or other document Beneficiary may request in order to perfect, preserve, continue, extend, or maintain security interests or liens granted herein to beneficiary and the priority of such security interests or liens. Grantor shall pay all costs and expenses incurred by Beneficiary in connection with the preparation, execution, recording, filing, and re-filing of any such document.

2. Reconveyance After Payment. Upon written request of Beneficiary stating that all obligations secured by this Deed of Trust have been paid, Trustee shall re-convey, without warranty, the Collateral then subject to the lien of this Deed of Trust. Grantor shall pay any costs, trustee's fees and recording fees incurred in so re-conveyancing the Property.

3. Nonwaiver of Terms and Conditions. Time is of the essence with respect to performance of the obligations under the Loan Documents. Beneficiary's failure to require prompt enforcement of any such obligation shall not constitute a waiver of the obligation or any subsequent required performance of the obligation. No term or condition of this Deed of trust or any other Loan documents may be waived, modified or amended except by a written agreement signed by Grantor and Beneficiary. Any waiver of any term or condition of the Loan Documents shall apply only to the time and occasion specified in the waiver and shall not constitute a waiver of the term or condition at any subsequent time or occasion.

4. Waivers by Grantor. Without affecting any of Grantor's obligations under the Loan Documents, Grantor waives the following: (a) any right to require Beneficiary to proceed against any specific party liable for sums due under the Loan Documents or to proceed against or exhaust any specific security for sums due under the Loan Documents; (b) notice of new or additional indebtedness of any Grantor or any other party liable for sums

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due under the Loan documents to Beneficiary; (c) any defense arising out of Beneficiary entering into additional financing or other arrangements with any Grantor or any other party liable for sums due under the Loan Documents and any action taken by Beneficiary in connection with any such financing or other arrangements or any pending financing or other arrangements; (d) any defense arising out of the absence, impairment, or loss of any or all rights of recourse, reimbursement, contribution or subrogation or any other rights or remedies of Beneficiary against any Grantor or any other party liable for sums due under the Loan Documents or any Collateral; and (e) any obligation of Beneficiary to see to the proper use and application of any proceeds advanced pursuant to the Loan Documents.

5. Right of Subrogation: Beneficiary is subrogated to the rights, whether legal or equitable, of all beneficiaries, mortgagees, lienholders and owners directly or indirectly paid off or satisfied in whole or in part by any proceeds advanced by Beneficiary under the Loan Documents, regardless of whether such parties assigned or released of record their rights or liens upon payment.

6. Joint and Several Liability. If there is more than one Grantor of this Deed of Trust, their obligations shall be joint and several.

7. Statement of Amount Owning. Grantor within fifteen (15) days after request by Beneficiary will furnish Beneficiary a written statement of the amount due under the Loan Documents, any offsets or defenses against the amount claimed by Grantor, and such other factual matters as Beneficiary may reasonably request.

8. Books and Records; Financial Statements.

(a) Grantor will keep and maintain, at Grantor's address stated above, or such other place as Beneficiary may approve in writing, accurate books and records of the operations of Grantor and of the Property, and copies of all leases, contracts, agreements and other documents which affect the operation of the Property, subject to examination and copying at any reasonable time by Beneficiary. Grantor shall deliver to Beneficiary, for each Grantor, (i) within one hundred fifty (150) days of each fiscal year end (or within twenty (20) days of Beneficiary's request therefor if Grantor is in default) annual financial statements including a year-end balance sheet and profit and loss statement; (ii) within sixty (60) days of the end of each calendar quarter, quarterly financial statements including a quarter end balance sheet and profit and loss statement; and (iii) within thirty (30) days of filing same, a copy of the most recent federal income tax return and related schedules, in each case certified in a manner acceptable to Beneficiary as true and correct.

(b) All financial statements shall be prepared in accordance with generally accepted accounting principles, consistently applied, or such other account practices as Beneficiary may approve. Annual financial statements for Grantor shall be CPA reviewed;



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quarterly financial statements for Grantor may be company-prepared. Grantor's compliance with these provisions shall not limit or affect Grantor's obligations to comply with financial, tax and operation covenants and reporting requirements under any other agreement between Grantor and Beneficiary whether or not such other agreement is related to the Secured Obligations. If any of the reporting requirements in this Section 8 are inconsistent with the reporting requirements in any such other agreement, the reporting requirements in such other agreement shall control.

9. Appraisals. In the event of a default Beneficiary may obtain a current regulatory conforming appraisal of the Collateral. In addition, appraisals may be commissioned by Beneficiary when required by laws and regulations, which govern beneficiary's lending practices. The cost of all such appraisals (and related internal review fees and costs) will be paid by Grantor within fifteen (15) days after request by Beneficiary.

10. Evasion of Prepayment Fee. If Grantor is in default, whether Beneficiary has accelerated the maturity of the indebtedness or not, any tender of payment sufficient to satisfy all sums due under the Loan Documents made at any time prior to foreclosure sale shall constitute an evasion of the prepayment terms of the Note, if any, and shall be deemed a voluntary prepayment. Any such payment, to the extent permitted by law, shall include the additional payment required under the prepayment fee provision in the Note, if any, or if at that time prepayment is not permitted, then such payment, to the extent permitted by law, will include an additional payment of five percent (5%) of the then principal balance.

11. Payment of New Taxes. If any federal, state, or local law is passed subsequent to the date of this Deed of Trust which requires Beneficiary to pay any tax because of this Deed of Trust or the sums due under the Loan documents (excluding income taxes), then Grantor shall pay to Beneficiary on demand any such taxes if it is lawful for Grantor to pay them, or, in the alternative Grantor may repay all sums due under the Loan Documents plus any prepayment fee within thirty (30) days of such demand. If it is not lawful for Grantor to pay such taxes, then at its option Beneficiary may declare a default under the Loan Documents.

12. In-House Counsel Fees. Whenever Grantor is obligated to pay or reimburse Beneficiary or Trustee for any reasonable attorneys' fees, those fees shall include the allocated costs for services of in-house counsel.

13. Notices. Any notice given by Grantor, Trustee or Beneficiary shall be in writing and shall be effective (1) on personal delivery to the party receiving the notice or (2) on the third day after deposit in the United States mail, postage prepaid with return receipt requested, addressed to the party at the address set forth above (or such other address as a party may specify by written notice given pursuant to this paragraph), or with respect to the Grantor, to the address at which Beneficiary customarily or last communicated with Grantor.



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14. Controlling Document. In the event of a conflict or inconsistency between the terms and conditions of this Deed of Trust and the terms and conditions of any other of the Loan Documents (except for any separate assignment of the Rents and/or the Leases and any loan agreement which shall prevail over this Deed of Trust), the terms and conditions of this Deed of Trust shall prevail.

15. Invalidity of Terms and Conditions. If any term or condition of this Deed of Trust and the Deed of Trust shall be construed as if not containing the invalid term or condition.

16. Legislation Affecting Beneficiary's Rights. If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Deed of Trust unenforceable according to its terms, Beneficiary, as its option, may require immediate payment in full of all sums secured by this Deed of Trust and may invoke any remedies permitted herein.

17. Rules of Construction. This Deed of Trust shall be construed so that, whenever applicable, the use of the singular shall include the plural, the use of the plural shall include the singular, and the use of any gender shall be applicable to all genders and shall include corporations, partnerships, limited partnerships, limited liability companies and other forms of entities.

18. Applicable Law. The Loan Documents shall be governed by and construed in accordance with the laws of the State of Washington.

GRANTOR:

BRIAR DEVELOPMENT COMPANY, a
Washington general partnership


By: Paul Penley CEO

By: _____



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STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this 25 day of MAY, 2000 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared DALE HENLEY, known to me to be a PRESIDENT of BRIAR DEVELOPMENT the Washington GENERAL PARTNERSHIP that executed the foregoing instrument, and acknowledged that said instrument to be the free and voluntary act and deed of said partnership, for the purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgement is the person whose true signature appears on this document.

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



Linda A. Fox
Signature

LINDA A. FOX
Print Name

NOTARY PUBLIC in and for the
State of Washington, residing at
BLAINE, WA

My Commission expires NOV. 10/2002.



200006080063

REQUEST FOR FULL RECONVEYANCE
To be used only when all obligations have been paid
Under the Note and this Deed of Trust

TO: **TRUSTEE**

The undersigned is the legal owner and holder of the Note and all other indebtedness secured by the within Deed of Trust. Said Note, together with all other indebtedness secured by said Deed of Trust, has been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel said Note above mentioned and all other evidence of indebtedness secured by said Deed of Trust delivered to you herewith, together with said Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, all the state now held by you thereunder.

Dated: _____

Mail reconveyance to:



200006080063

Kathy Hill, Skagit County Auditor
6/8/2000 Page 26 of 32 11:41:35AM

26/

EXHIBIT "A"

PARCEL A:

The West Half of Government Lot 1 in Section 6, Township 34 North, Range 4 East of the Willamette Meridian;

EXCEPT the South Quarter of the East Half of the West Half of said Government Lot 1;

AND EXCEPT that portion of the East Half of the West Half of said Government Lot 1, lying North of a line 200 feet South of and parallel with the County road, as the same existed on July 7, 1955, (now known as State Highway 20);

AND ALSO EXCEPT that portion thereof lying North of the County road;

AND ALSO EXCEPT that portion described as follows:

The East 108 feet (measured along the South line of SSH No. 1-C) of the West Half of the West Half of Government Lot 1, Section 6, Township 34 North, Range 4 East of the Willamette Meridian, lying South of SSH No. 1-C and North of a line 200 feet South (measured at right angles to said SSH No. 1-C) and parallel with the South line of said highway;

AND ALSO EXCEPT that portion thereof conveyed to the State of Washington for highway purposes by deed recorded June 2, 1972, under Auditor's File No. 769083, records of Skagit County, Washington;

AND ALSO EXCEPT that portion of the West Half of the West Half of Government Lot 1, Section 6, Township 34 North, Range 4 East of the Willamette Meridian, lying South of State Route 20 and North of a line running parallel with the South line of said State Route 20, said line passing through a point which lies 77 feet Northeasterly of Highway Engineers Station S - EW 13 + 00 as shown in that certain deed executed by Kenneth S. Goulter, et ux, to the State of Washington for State Route 20 interchange of SR 5 Skagit River to Jct. SR 20 as recorded June 2, 1972, under Auditor's File No. 769083, records of Skagit County, Washington;

AND ALSO EXCEPT that portion of the East Half of the West Half of said Government Lot 1 lying South of State Route 20 and North of a line 400 feet South of and parallel with the Southerly margin of said State Route 20, as the same existed on February 1, 1979;

AND ALSO EXCEPT the East 110 feet thereof;

Continued



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Kathy Hill, Skagit County Auditor

EXHIBIT "A"
Page 2

PARCEL A continued

AND ALSO EXCEPT that portion of Government Lot 1, Section 6, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning at the Southeast corner of said Government Lot 1;
thence North 89°07'54" West along the South line thereof a distance of 40.00 feet to the present West line of South Burlington Boulevard as conveyed to the City of Burlington by deeds recorded under Auditor's File Nos. 8707280007 and 8707280008, records of Skagit County, Washington;
thence continuing North 89°07'54" West along said South line a distance of 667.43 feet to the true point of beginning;
thence North 00°23'13" East a distance of 161.80 feet;
thence North 89°42'18" West a distance of 209.00 feet;
thence South 00°24'50" West a distance of 44.78 feet to the point of curvature of a tangent curve concave to the Northwest having a radius of 94.93 feet;
thence Southwesterly along the arc of said curve which is to the right, through a central angle of 63°04'24" a distance of 104.50 feet;
thence South 64°39'13" West a distance of 57.39 feet to a non-tangent curve concave to the Southeast having a radius of 70.07 feet the centerpoint of which bears South 32°28'54" East;
thence Southwesterly along the arc of said curve which is to the left through a central angle of 04°33'33" a distance of 5.58 feet to the end of said curve, said centerpoint of which bears South 37°02'27" East;
thence South 00°17'42" West a distance of 2.31 feet to said South line of Government Lot 1;
thence South 89°07'54" East along said South line a distance of 318.93 feet to the point of beginning.

PARCEL B:

Lot 10, PLAT OF NORTHSOUND COMMERCIAL PARK, according to the plat thereof recorded in Volume 12 of Plats, page 46, records of Skagit County, Washington.

Continued

EXHIBIT "A"
Page 3

PARCEL C:

That portion of the South Half of the Northeast Quarter of Government Lot 1 of Section 6, Township 34 North, Range 4 East of the Willamette Meridian, lying West of the State Highway right-of-way conveyed to the State of Washington, by deed dated February 7, 1927, and recorded February 21, 1927, under Auditor's File No. 201385, records of Skagit County, Washington, and lying Southerly of a line which runs West (parallel with the North line of said Government Lot 1) from a point that is 150 feet South of the Northeast corner of said South Half of the Northeast Quarter of said Government Lot 1;

EXCEPT that portion conveyed to the City of Burlington by deed recorded December 9, 1985, under Auditor's File No. 8512090010, records of Skagit County, Washington.

PARCEL D:

The North 139 feet of the following described property:

That portion of the North Half of the Southeast Quarter of Government Lot 1, Section 6, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning at a point on the South line of said subdivision, 30 feet West of the Southeast corner thereof;
thence North 00°13' West a distance of 16 feet to the true point of beginning;
thence North 89°12'15" West a distance of 221.28 feet;
thence North 00°08'22" East a distance of 310.95 feet to the North line of said subdivision;
thence South 89°12'15" East along the North line of said subdivision to the West right-of-way line of the State Highway;
thence South 00°13' West along said highway right-of-way line to the true point of beginning;

EXCEPT that certain 10 foot wide strip of land conveyed to the City of Burlington by deeds recorded February 19, 1986, and November 25, 1986, under Auditor's File Nos. 8602190020 and 8611250010, records of Skagit County, Washington.

Continued

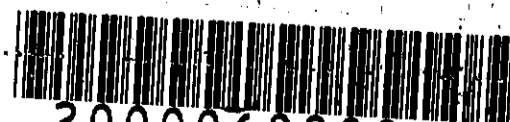


EXHIBIT "A"
Page 4

PARCEL E:

That portion of the North Half of the Southeast Quarter of Government Lot 1, Section 6, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning at a point on the South line of the above subdivision 30.0 feet West of the Southeast corner thereof;
thence North 89°12'15" West along the South line of said subdivision a distance of 621.26 feet to the Southwest corner thereof;
thence North 00°08'22" East along the West line of said subdivision a distance of 326.98 feet to the Northwest corner thereof;
thence South 89°12'15" East along the North line of said subdivision a distance of 400 feet;
thence South 00°08'22" West a distance of 310.95 feet;
thence South 89°12'15" East a distance of 221.28 feet to the West right-of-way line of the State Highway;
thence South 00°13' West along said highway right-of-way line a distance of 16.0 feet to the point of beginning;

EXCEPT that portion conveyed to the City of Burlington for street purposes by deeds recorded July 28, 1987, under Auditor's File Nos. 8707280007 and 8707280008, records of Skagit County, Washington.

(Also known as Parcel A of Survey recorded in Volume 20 of Surveys, page 29, under Auditor's File No. 9712230023, records of Skagit County, Washington).

Continued



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EXHIBIT "A"
Page 5

PARCEL F:

The South Quarter of the East Half of the West Half of Government Lot 1, Section 6, Township 34 North, Range 4 East of the Willamette Meridian, (also known as Parcel B of Survey recorded in Volume 20 of Surveys, page 29, under Auditor's File No. 9712230023, records of Skagit County, Washington);

EXCEPT that portion of Government Lot 1, Section 6, Township 34 North, Range 4 East of the Willamette Meridian, described as follows:

Beginning at the Southeast corner of said Government Lot 1;
thence North 89°07'54" West along the South line thereof a distance of 40.00 feet to the present West line of South Burlington Boulevard as conveyed to the City of Burlington by deeds recorded under Auditor's File Nos. 8707280007 and 8707280008, records of Skagit County, Washington;
thence continuing North 89°07'54" West along said South line a distance of 667.43 feet to the true point of beginning;
thence North 00°23'13" East a distance of 161.80 feet;
thence North 89°42'18" West a distance of 209.00 feet;
thence South 00°24'50" West a distance of 44.78 feet to the point of curvature of a tangent curve concave to the Northwest having a radius of 94.93 feet;
thence Southwesterly along the arc of said curve which is to the right, through a central angle of 63°04'24" a distance of 104.50 feet;
thence South 64°39'13" West a distance of 57.39 feet to a non-tangent curve concave to the Southeast having a radius of 70.07 feet the centerpoint of which bears South 32°28'54" East;
thence Southwesterly along the arc of said curve which is to the left through a central angle of 04°33'33" a distance of 5.58 feet to the end of said curve, said centerpoint of which bears South 37°02'27" East;
thence South 00°17'42" West a distance of 2.31 feet to said South line of Government Lot 1;
thence South 89°07'54" East along said South line a distance of 318.93 feet to the point of beginning.

Continued



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EXHIBIT "A"
Page 6

PARCEL G:

The South Half of the South Half of the East Half of Government Lot 1, Section 6, Township 34 North, Range 4 East of the Willamette Meridian;

EXCEPT that portion conveyed to the City of Burlington for street purposes by deeds recorded July 28, 1987, under Auditor's File Nos. 8707280007 and 8707280008, records of Skagit County, Washington.

(Also known as Parcel C of Survey recorded in Volume 20 of Surveys, page 29, under Auditor's File No. 9712230023, records of Skagit County, Washington).

- END OF EXHIBIT "A" -



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