

WHEN RECORDED RETURN TO:

Chae & Associates, P.S.
24823 Pacific Hwy. S., Ste. 108
P.O. Box 3967
Kent, Washington 98032



200112240011
Skagit County Auditor

12/24/2001 Page 1 of 21 8:35AM

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

LEASEHOLD DEED OF TRUST

DEC 21 2001

AND ASSIGNMENT OF RENTS AND LEASES

Amount Paid *0*
Skagit Co. Treasurer
By *AS* Deputy

THIS LEASEHOLD DEED OF TRUST AND ASSIGNMENT OF RENTS AND LEASES ("Instrument") is made this 18th day of September, 2001, among the Grantors, CHAN S. PARK and MEE YOUNG LEE, husband and wife ("Borrower"), Chae & Associates, P.S., a Washington professional services corporation ("Trustee"), and the Beneficiary, SKAGIT PARTNERS III, INC., a Washington corporation, Grantee ("Lender").

Borrower, in consideration of the indebtedness herein recited and the trust herein created, irrevocably grants, conveys and assigns to Trustee, in trust, with power of sale, all of the estate, title and interest of the Borrower in the fee simple, leasehold and easement estates in the following described real property ("Real Property") located in Skagit County, State of Washington, commonly known as 1729 Cederdale Rd., Mt. Vernon, Washington, and more fully described below:

Legal Description: Lot 1, of Short Plat No. 96-001, approved May 10, 1996, recorded May 17, 1996, in Volume 12 of Short Plats, Pages 100 and 101, as Auditor's File No. 9605170034, records of Skagit County, Washington, and being a portion of the Northeast 1/4 of the Northwest 1/4, Section 32, Township 34 North. Range 4 East, W.M.

Tax Parcel No.: 340432-2-050-0100

TOGETHER, with all buildings, improvements and tenements now or hereafter erected on the Real Property, and all heretofore or hereafter vacated alleys and streets abutting the Real property, and all easements, rights, appurtenances, rents (subject, however, to the assignment of rents to Lender herein), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the Real Property, and all fixtures, machinery, equipment, engines, boilers,

incinerators, building materials, appliances and goods of every nature whatsoever now or hereafter located in or on, or used or intended to be used in connection with the Real Property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; and all elevators and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves refrigerators, dishwashers, disposals, washers dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants, and any and all other personal property on the Real Property site, and assignable licenses, permits, contracts, trade names, and any and all other intangibles, all of which, including replacements and additions thereto, shall be deemed to be part of the Real Property securing this Instrument; and all of the foregoing, together with said Real Property, are herein referred to as the "Property".

TO SECURE TO LENDER (a) the repayment of the indebtedness evidenced by Borrower's Note of even date herewith ("Note") in the principal sum of Seven Hundred Thousand Dollars (\$700,000.00), with interest thereon, (b) the payment of all other sums, with interest, advanced under this Instrument; and © the performance of the obligations of Borrower set out in this Instrument and other documents evidencing, governing or securing the indebtedness of Borrower under the Note (collectively, "Loan Document").

Borrower represents and warrants that Borrower is lawfully seized of an indefeasible leasehold estate in and has good and absolute leasehold title to the Property and has the right to grant, convey and assign the Property and to execute this Leasehold Deed of Trust, that the Property is unencumbered, that the lease with the owner of the fee simple interest in the Real Property ("Lease") is in full force and effect in accordance with its terms, that no event of default has occurred under the Lease, and that Borrower will warrant and defend generally the title to the property and the lien and priority of this Instrument against all claims and demands.

Uniform Covenants and Agreements. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest, performance of Obligations.** Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, any prepayment and late charges and other sums provided in the Note at the time and place and in the manner specified in the Note and all other sums secured by this Instrument, without offset, counterclaim or defense. Borrower promptly and fully shall keep, perform and comply with all terms, provisions, covenants and conditions imposed upon Borrower under the Note, this instrument or any other Loan Documents.
2. **Funds for Taxes, Insurance and Other Charges.** Intentionally omitted.
3. **Application of Payments.** Payments received by Lender from Borrower under the Note or this Instrument shall be applied by Lender in the following order: (i) amounts payable to Lender by Borrower under paragraph 2 of this Instrument; (ii) late charges payable on the



Note; (iii) prepayment premiums, if any, payable on the Note; (iv) interest payable on advances for the protection of Lender's security made under paragraph 8 of this Instrument, (v) interest payable on the Note; (vi) principal of advances made under paragraph 8 of this Instrument; (vii) principal payable on the Note; and (viii) any other sums secured by this Instrument in such order and manner as Lender may determine.

4. **Charges, Liens.** Borrower shall promptly discharge any lien that may have priority over or equality with the lien of this Instrument. Borrower shall pay, when due, the claims of all persons supplying labor or materials in connection with the Property. Without Lender's prior written permission, in each instance, Borrower shall not allow any lien inferior to this Instrument to be perfected against the Property. Lender may withhold such permission in its sole discretion.
5. **Hazard Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured by carriers all times satisfactory to Lender against loss by fire, hazards included within the term "extended coverage", rent loss, plate glass, business interruption and such other hazards, casualties liabilities and contingencies as Lender shall require. Coverages shall be in such amounts and for such periods as Lender shall require.

All premiums shall be paid, at Lender's option, in the manner provided under paragraph 2 or paragraph 4 of this Instrument.

All insurance policies and renewals of policies shall be in a acceptable to Lender and shall include a standard mortgagee clause in favor of and acceptable to Lender. Lender shall have the right to hold the policies, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least thirty (30) days prior to the expiration date of the policy, Borrower shall deliver to Lender a renewal policy satisfactory to Lender.

In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. Borrower empowers Lender as attorney-in-fact for Borrower to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from insurance policies, to collect and receive insurance proceeds, and to deduct from proceeds Lender to incur any expense or take any action. Borrower further authorizes Lender, at Lender's option, (a) to hold the balance of insurance proceeds to reimburse Borrower for the cost of reconstruction or repair of the Property or (b) to apply the balance of insurance proceeds to the payment of the sums secured by this Instrument, in the order of application set forth in paragraph 3.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, the Property shall be restored to such condition as Lender may approve in writing. Lender may, at Lender's option, condition disbursement of insurance proceeds on Lenders approval of plans and specifications, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and



such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Lender may require. If the insurance proceeds are applied to the payment of the sums secured by this Instrument, the application of proceeds to principal shall not extend or postpone the due dates of the monthly installments referred to in paragraphs 1 and 2 or change the amounts of monthly installments. If the Property is sold under paragraph 29 or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower to any insurance policies, unearned premiums and insurance proceeds resulting from any prior damage to the Property.

Lender shall not exercise its option to apply insurance proceeds to the payment of the sums secured by this Instrument if all the following conditions are met: (i) Borrower is not in breach or default of any obligation under this Instrument or the Note; (ii) Lender determines that there will be sufficient funds to restore and repair the Property to a condition approved by Lender; (iii) Lender agrees in writing that the rental income of the Property, after restoration and repair of the Property, will be sufficient to meet all operating costs and other expense, payments for reserves and loan repayment obligations relating to the Property; (iv) lender determines that restoration and repair of the Property will be completed within one (1) year of the date of the loss or casualty to the Property; and (v) restoration and repair of the Property will be completed with more than one (1) year remaining prior to the maturity date of the Note.

6. **Preservation and Maintenance of Property; Environmental Hazards.** Borrower (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall not abandon the Property, (c) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss to the Property, whether or not insurance proceeds are available to cover in whole or in part the costs of restoration or repair, (d) shall keep the Property in good repair, shall not remove, demolish or materially alter the Property without Lender's prior written consent in each instance, and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (e) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, (f) shall provide for management of the Property by a property manager satisfactory to Lender, (g) shall generally operate and maintain the Property in manner to ensure a maximization of the value of the Property, maximum rentals and current and future economic viability, (h) shall not commence construction on the Property without Lender's prior written consent in each instance, and (i) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding affecting the Property, the security or priority of this Instrument or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any improvement now existing or to be erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind.



Borrower agrees that Borrower shall not (a) cause or permit the presence, use, generation, manufacture, production, processing, installation, release, discharge, storage (including above-and under-ground storage tanks for petroleum or petroleum products, but excluding small containers of gasoline used for maintenance equipment or similar purposes), treatment, handling, or disposal of any Hazardous Materials, as defined in this paragraph 6, on, under, in or about the Property, or in any way affecting the Property or which may form the basis for any present or future claim, demand or action seeking cleanup of the property, or the transportation of any Hazardous Materials to or from the Property, or (b) cause or exacerbate any occurrence or condition on the Property that is or may be in violation of Environmental Laws as defined in this paragraph 6. Borrower shall take all appropriate steps to secure compliance by all tenants and subtenants on the Property with Borrower's obligations in this paragraph 6.

Borrower further agrees at all times that it shall comply with (a) all Environmental Laws and (b) all notices of violations of Environmental Laws prior to the issuance of any regulatory or judicial order or assessment of any fines. Borrower shall not cause or permit the use of the Property for the generation, presence, management, release, escape, spillage, seepage, leakage, dumping, pouring, emptying, treatment, discharge, emission, handling, storage, transportation, disposal or the like of Hazardous Materials. Borrower shall not cause or permit the migration of Hazardous Materials from the Property to any other property or onto the Property from any property or area adjacent to the Property. No Hazardous materials shall be placed on, in, under or about the Property except in strict compliance with Environmental laws. For purposes of this paragraph 6, "**Hazardous Material**" means all materials, chemicals, compounds or substances identified as hazardous or toxic under Environmental Laws. Borrower shall advise Lender promptly, in writing, of any notice or other communication, written or oral, from the United States Environmental Protection Agency or any other federal, state or local governmental authority having jurisdiction over the Property with respect to any (a) alleged violation of any Environmental Laws, or (b) the generation, presence, management, release, escape, spillage, seepage, leakage, dumping, pouring, emptying, treatment, discharge, emission, handling, storage, transportation, disposal or the like of Hazardous Materials or storage tanks.

Lender, at its sole option and at Borrower's expense, may, from time to time, obtain an environmental audit prepared by an independent engineer or other qualified environmental consultant in order to verify the absence of Hazardous materials on, in, under or about the Property. All tests and samplings shall be conducted using generally accepted and scientifically valid technology and methodologies. Borrower shall give the engineer or environmental consultant reasonable access to the Property and to all records in the possession of Borrower that may indicate the presence (whether current or past) or release of Hazardous Materials on, in, under or about the Property. Borrower shall also provide the engineer or environmental consultant an opportunity to interview such persons employed in connection with the Property as the engineer or consultant deems appropriate.

Borrower shall promptly notify Lender in writing of: (i) any enforcement, cleanup, removal or other governmental or regulatory action, investigation, or any other proceeding instituted, completed or threatened in connection with any Hazardous Materials; (ii) any suit, cause of action, or any other claim made or threatened by any third party against Borrower or the Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any hazardous materials; and (iii) Borrower's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause all or any portion of the Property to be subject to any restrictions on the ownership, occupancy, transferability or use of the Property under Environmental Laws. The provisions of the preceding sentence shall be in addition to any and all other obligations and liabilities that Borrower may have to Lender under applicable law.

Borrower agrees to indemnify, defend and hold harmless Lender from and against any and all claims, demands, costs, losses, liabilities, expenses (including reasonable attorneys' fees, whether suit is instituted or not), judgments, fines or amounts paid in settlement (collectively, "Losses"), incurred by Lender in connection with or as a result of any violations of any Environmental Laws on, in, under or about the Property, arising out of acts or omissions of Borrower, its agents, employees or contractors, occurring after the effective date of this Instrument. This indemnity shall specifically cover costs, including capital, operating and maintenance costs, incurred in connection with (i) any investigation or monitoring of site conditions, (ii) any clean up, containment, remediation, removal or restoration work required or performed by any federal, state or local governmental entity or performed by any other entity or person because of the presence, release, threatened release or any contamination on, in under or about the Property, and (iii) any claims by third parties for Losses due to such contamination. For purposes of this paragraph 6, "Environmental Laws" means any of the following: the Resource Conservation and Recovery Act (42 U.S.C. 6901, et seq.); the Comprehensive Environmental Response, Compensation and Liability Act of 1990, as amended by the Superfund Amendments and Reauthorization Act (42 U.S.C. 9601, et seq.); the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 1101, et seq.); the Hazardous Materials Transportation Act of 1974 (49 U.S.C. 1801, et seq.); the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.); the Safe Drinking Water Act (42 U.S.C. 3001, et seq.); the Toxic Substance Control Act (15 U.S.C. 2601, et seq.); and the Clean Air Act (42 U.S.C. 4701, et seq.), as any of the same may be amended from time to time, and any comparable or successor provisions of federal, state or local law, and any regulations, orders, rules, procedures, guidelines and the like promulgated in connection therewith.

7. **Use of Property.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.
8. **Protection of Lender's Security.** If Borrower fails to fully and faithfully perform its



obligations under this Instrument, or if any action or proceeding is commenced that affects the Property, title to the Property or the interest of Lender in the Property, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements of proceedings involving a bankrupt or decedent, then Lender may make such appearance, disburse such sums and take such action as Lender deems necessary to protect Lender's interests, including, but not limited to, (i) disbursement of attorneys' fees, (ii) entry upon the Property to make repairs, and (iii) procurement of satisfactory insurance as provided in paragraph 5 of this Instrument.

Any amounts disbursed by Lender under this paragraph 8 shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender agree to other terms of payment, amounts disbursed under this paragraph 8 shall be immediately due and payable, and shall bear interest from the date of disbursement at the rate stated in the Note.

Borrower agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured by this Instrument. Nothing contained in this paragraph 8 shall require Lender to incur any expense or take any action.

9. **Inspection.** Lender is authorized and empowered to enter and to authorize others to enter upon any or all of the Property, at any time and from time to time, to inspect the same, to perform or observe any covenants, conditions or terms that Borrower shall fail to perform, meet or comply with, or for any purpose in connection with the protection or preservation of Lender's security, without thereby becoming liable to Borrower or any person in possession holding under Borrower.
10. **Books and Records.** Borrower shall keep and maintain at all times at Borrower's address stated in paragraph 21, or such other place as Lender may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property and copies of all times at Borrower's address stated in paragraph 21, or such other place as Lender may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instruments which affect the Property. These books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender. Upon Lender's request, Borrower shall furnish to Lender, within one hundred and twenty (120) days after the end of each fiscal year of Borrower, a balance sheet, a statement of income and expenses of the Property and a statement of changes in financial position, each in reasonable detail and certified by the chief financial officer of Borrower and, if Lender shall require, by an independent certified public accountant. Borrower shall furnish, together with the financial statements and at any other time upon Lender's request, a rent schedule for the Property, certified by Borrower, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable and the rent paid.



11. **Condemnation.** Borrower shall promptly notify Lender of any action or proceedings relating to any condemnation or other taking, whether direct or indirect, of all or part of the Property, and Borrower shall appear in and prosecute any such action or proceedings unless otherwise directed by Lender in writing. Borrower authorizes Lender, as attorney-in-fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceedings relating to any condemnation or other taking of the Property, and to settle or compromise any claim. The proceeds of any award or payment for damages, or for conveyances in lieu of condemnation, shall be paid to Lender.

Borrower authorizes Lender to apply condemnation awards or payments, after the deduction of Lender's expenses incurred in collection of these amounts, to restoration or repair of the Property or to payment of the sums secured by this Instrument, in the order of application set forth in paragraph 3. Any balance shall be promptly paid by Lender to Borrower. Unless Borrower and Lender otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 of this Instrument or change the amount of the monthly installments. Borrower agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

12. **Borrower and Lien Not Released.** Lender may, without giving notice to or obtaining the consent of Borrower, or of any junior lienholder or guarantors, extend the time for payment of all or part of the indebtedness secured by this Instrument, reduce the payments on the indebtedness, release anyone liable on any of the indebtedness, accept a renewal Note or Notes for the indebtedness, modify the terms of payment of the indebtedness, release from the lien of this Instrument any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to the granting of any easement, join in any extension or subordination agreement, and agree in writing with Borrower to modify the rate of interest, the period of amortization, or the amount of the monthly installments payable under the Note. Actions taken by Lender under this paragraph 12 shall not affect the obligation of Borrower to pay the sums secured by this Instrument and to fulfill the obligations of Borrower contained in this Instrument. Furthermore, actions taken by Lender shall not affect any guaranty for payment of the indebtedness or Lender's lien on the Property. Borrower shall pay Lender a reasonable service charge, together with any title insurance premiums and attorney's fees as may be incurred for any such action if taken at Borrower's request.
13. **Forbearance by Lender Not a Waiver.** Any forbearance by Lender in exercising any right or remedy under this Instrument or permitted by law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the



indebtedness secured by this Instrument. Furthermore, Lender's receipt of any awards, proceeds or damages under paragraphs 5 and 11 shall not operate to cure or waive Borrower's default in its obligations to pay sums secured by this Instrument.

14. **Loan Documents.** Borrower agrees that any default or breach by Borrower or its principals and guarantors, or any misrepresentation of fact by Borrower or its principals and guarantors under any of the Loan Documents shall be a breach of Borrower's obligations under this Instrument. The term "**Loan Documents**", as used in this Instrument, includes, but is not limited to, the Note, this Instrument, any escrow agreement, the loan application, the Real Estate Contract, including all supporting exhibits, any escrow agreement, and all other documents executed and delivered in connection with and evidencing, governing or securing the financing transaction secured by this Instrument, as provided by Borrower or its principals and guarantors to Lender. Upon breach of Borrower's obligations under this paragraph 14, Lender may declare all sums secured by this Instrument due and payable and invoke any remedies permitted by paragraph 29 of this Instrument.
15. **Estoppel Certificate.** Borrower shall, within ten(10) days of a written request therefore by Lender, furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Instrument.
16. **Uniform Commercial Code Security Agreement.** This Instrument is intended to be a security agreement under the Uniform Commercial Code for any of the items specified above as part of the Property that, as a matter of law, may be subject to a security interest under the Uniform Commercial Code. Borrower grants Lender a security interest in these items. Borrower agrees that Lender may file this Instrument in the real estate records or other appropriate index as a financing statement for any of the items specified above as a part of the Property. Any copy of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments to financing statements and copies of this Instrument, and such other documents as Lender may deem necessary or desirable, in such form as Lender may require to perfect a security interest or to effectuate, complete, enlarge or perfect, or to continue and preserve (a) the obligations of Borrower under the Note and Loan Documents, and (b) the lien of this Instrument as a first and prior lien upon all of the Property, whether now owned or hereafter acquired by Borrower. Borrower shall pay all costs of filing financing statements and any extensions, renewal, amendments and releases. Borrower shall further pay all reasonable costs and expenses of any record searches for financing statements Lender may require. Without the prior written consent of Lender, Borrower shall not create under the Uniform Commercial Code any other security interest in these items, including replacements and additions. Upon Borrower's breach of any obligation of Borrower contained in this Instrument, including the obligation to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the Uniform



Commercial Code and also may invoke the remedies proved in paragraph 29 of this Instrument. In exercising its remedies . Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code and the remedies provided in paragraph 29 of this Instruments.

17. **Leases of the Property.** Borrower shall comply shall comply with Borrower's obligations as landlord under all leases of the Property. At Lender's request, Borrower shall furnish Lender with executed copies of all current and future leases made of all or any part of the Property. All leases shall be subject to the approval of Lender. All leases of the Property shall be specifically subordinate to this Instrument (unless Lender shall otherwise consent in writing) and shall obligate each tenant to furnish Lender, within ten (10) days of written request by Lender a written statement setting forth any right of set-off, counterclaim or other defense which tenant may have under its lease. All leases also shall reflect that the tenant recognizes Lender as landlord (attorns to Lender), effective upon Lender's acquisition of title to the Property; that the tenant agrees to execute further evidences of attornment as Lender may from time to time request; that the attornment of the tenant shall not be terminated by foreclosure; and that Lender may, at its option, accept or reject such attornments. Borrower shall not, without Lender's prior written consent, in each instance, execute, modify, surrender or terminate, either orally or in writing, any lease of all or any part of the Property providing for a term of three years or more, permit an assignment or sublease of such a lease without Lender's written consent, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this Instrument. If Borrower becomes aware that any tenant proposes to do, or is doing, any act or thing which may give rise to any right of set-off against rent, Borrower shall (i) take such steps as shall be reasonably calculated to prevent the accrual of any right to set-off against rent, (ii) notify Lender of this circumstance and of the amount of said set-offs, and (iii) within ten days (10) after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such other steps as shall effectively discharge the set-off and as shall assure that rents thereafter due shall continue to be payable without set-off or deduction.

Leases on the Property for commercial use, (i) shall provide for a minimum six (6) months term, (ii) shall not provide for a term greater than five (5) years and, (ii) shall not provide for a term greater than five (5) years and, (iii) shall approximately reflect current market rents.

Upon Lender's request, Borrower shall assign to Lender, by written instrument satisfactory to Lender, all current and future leases of all or part of the Property and all security deposits made by tenants. Upon this assignment of leases, Lender shall have all of the rights and powers possessed by Borrower prior to the assignment. Furthermore, Lender shall have the right to modify, extend or terminate existing leases and to execute new lease, in Lender's sole discretion.



18. **Events of Default.** The occurrence of any one or more of the following events shall constitute an "Event of Default" under this Agreement:

(a) The failure of the Borrower to pay any of the obligations, including without limitation, any sum due the Lender under the Note or other Loan Documents, when and as the same shall become due, whether by demand, acceleration or otherwise; and such failure is not cured within fifteen days after Lender's written demand;

(b) The failure of the Borrower to perform, observe or comply with any warranty, covenant, condition, promise, or agreement made under the Note, this Agreement or any of the other Loan documents (other than payment defaults);

(c) If any representation or warranty made in this Agreement or in any of the other Loan Documents or if any information contained in any financial statement application, schedule or report or any other document given by the Borrower, or any other person in connection with the Loan, any of the Collateral, or any of the Loan Documents is not in all respects true and accurate, or if the Borrower or such other Person omitted to state any fact necessary to make such information not materially misleading;

(d) The occurrence of an Event of Default under any of the other Loan Documents;

(e) The occurrence of any default with respect to any indebtedness of the Borrower to any person or with respect to any agreement securing any indebtedness of the Borrower to any person after expiration of any applicable grace period but whether or not any required notice has been given and a determination by the Lender, in good faith but, in its sole discretion, that same could have a material adverse effect on the Borrower or the prospect for full and punctual payment and performance of the Note, this Agreement or the other Loan Documents;

(f) The Borrower shall be or become insolvent (as defined in Section 101 of the United States Bankruptcy Code) or unable to pay its debts as they become due, or admit in writing to such insolvency or to such inability to pay its debts as they become due;

(g) There shall be filed against the Borrower an involuntary petition or other Pleading seeking the entry of a decree or order for relief under the United States Bankruptcy Code or any similar federal or state insolvency or similar laws ordering (i) the liquidation of the Borrower or the Facility, or (ii) a reorganization of the Borrower or its business and affairs, or (iii) the appointment of receiver, liquidator, assignee, custodian, trustee, or similar official for the Borrower or its property, and the failure to have such petition or other pleading denied or dismissed within (60) Calendar days from the date of filing;

(h) The commencement by the Borrower of a voluntary case under the federal bankruptcy laws or any federal or state insolvency or similar laws or the consent by the Borrower to the appointment of or taking possession by a receiver, liquidator, assignee, trustee, custodian, or similar



official for the Borrower or an assignment for the benefit of creditors, or the failure by the Borrower generally to pay its debts as they become due;

(i) The dissolution, merger, consolidation or reorganization of, or the entry of any order, judgment, or decree for the dissolution, merger, consolidation or reorganization of, the Borrower or the Facility;

(j) The entry of any judgment, order, award, or decree (a " Judgment") against the Borrower which is not cover by insurance and a determination by the Lender, in good faith but in its sole discretion, that the same, when aggregated with all other Judgments outstanding against the Borrower could have a material adverse effect on the Borrower, the collateral or the Facility, or the prospect for full and punctual payment and performance of the Note, this Agreement or the other Loan Documents, if the Judgment has not been discharged or execution thereof stayed within thirty (30) days after its entry or discharged within thirty (30) days after the expiration of any stay;

(k) The entry of an order by a court of competent jurisdiction enjoining or restraining the Borrower in any manner from conducting its business in whole or in part and a determination by the Lender, in good faith in its sole discretion, that such order could have a material adverse effect on the Borrower, the Collateral, or the Facility, the Lender's rights with respect to the Collateral or the Facility, or the prospect for full and punctual payment and performance of the Note, this Agreement or the other Loan Documents, if such order is not terminated or stayed within ten (10) days after its entry or terminated within ten (10) days after the expiration of any stay;

(l) Any assets of the Borrower shall be attached, levied upon, seized or repossessed or come into the possession of a trustee, receiver or other custodian;

(m) The occurrence of any material adverse change in the financial condition of the Borrower, or the existence of any other condition which, in Lender's reasonable determination, impairs the prospect for full and punctual payment of the obligations or the Borrower's ability to perform its obligations under the Loan Documents;

(n) The Borrower sells, transfers, conveys, leases, except in the usual course of business, any material part of its assets or properties or alter its capital structure ; and

(o) The occurrence of any event of default under the terms of the Lease.

19. **Acceleration in Case of Borrower's Insolvency.** If Borrower shall voluntarily file a petition under any Federal or state statute relation to bankruptcy, insolvency, arrangements or reorganizations, or file an answer in an involuntary proceeding admitting insolvency or inability to pay debts, or if Borrower shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Borrower, or if Borrower shall be adjudged a bankrupt, or if a trustee or receiver shall be appointed for Borrower or Borrower's property, or if the Property shall become subject to the jurisdiction



of a bankruptcy court, or if Borrower shall make an assignment of the benefit of Borrower's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's assets and such seizure is not discharged within ten (10) days, then Lender may declare all of the sums secured by this Instrument to be immediately due and payable. Lender also may invoke any remedies permitted by paragraph 29 of this Instrument. Any attorneys' fees and other expenses incurred by Lender in connection with Borrower's bankruptcy or related events shall be additional indebtedness of Borrower secured by this Instrument pursuant to paragraph 8.

20. **Transfers of the Property or Beneficial Interests in Borrower; Assumption.** On sale or transfer of either (i) all or any part of the Property, or any interest in the Property (other than obsolete or worn personal property replaced by adequate substitutes of equal or greater value than the replaced items when new), or (ii) any beneficial interest in Borrower (if Borrower is not a natural person or persons but is a corporation, partnership, trust or other legal entity), Lender may declare all sums secured by this Instrument immediately due and payable, and Lender may invoke any remedies permitted by paragraph 29 of this Instrument. Lender shall not take such action in the case of :
- a. Transfers by devise or descent or by operation of law upon the death of a joint tenant or partner; or
 - b. The grant of a leasehold interest in part of the Property of ten (10) years or less (or such longer lease term as Lender may permit by prior written approval) not containing an option to purchase; or
 - c. Sales or transfers of beneficial interest in Borrower where there are one hundred (100) or more beneficial owners and, in the aggregate, five percent (5%) or less of the total number of beneficial interest have been sold or transferred.
21. **Notice.** Except for any notice required by law to be given in another manner, all notices, waivers, demands, requests or other communications required or permitted by this Instrument (collectively, "**Notices**"), to be effective, shall be in writing, properly addressed, and shall be given (i) by personal delivery, (ii) by established overnight commercial courier with delivery charges prepaid or duly charged, (iii) by registered or certified mail, return receipt requested, first class postage prepaid, or (iv) by facsimile transmission, as follows:

If to Lender: Skagit Partners III, Inc.

If to Borrower: Chan S. Park or Mee Young Lee
2829 Cederdale Rd.



Mt. Vernon, WA 98273

or to any other address or addressee as any party entitled to receive notice under this Agreement shall designate, from time to time, to others in the manner provided in this paragraph 21 for the service of Notices.

Notices delivered by personal delivery shall be deemed to have been given upon tender to a natural person at the address shown. Notices delivered by overnight courier shall be deemed to have been given the next business day after delivery to such overnight commercial courier. Notices delivered by mail shall be deemed to have been given on the second (2nd) day after deposit into the United State Postal System. Notices delivered by facsimile transmission shall be deemed to have been given upon confirmation of transmission to the correct telecopy phone number of the intended recipient. All copies of Notices sent to the parties listed above as receiving copies shall be given in the same manner as the original Notice that was sent and shall be a prerequisite to the effectiveness of any Notice.

22. **Successors and Assigns Bound; Joint and Several Liability; Agents; Captions.** The covenants and agreements contained in this Instrument shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 20. All obligations of Borrower shall be joint and several. In exercising any rights or taking any actions under this Instrument, Lender may act through its employees, agents or independent contractors. The captions and headings of the paragraphs of this Instrument are for reference and convenience only and are not to be used to interpret or define its provisions.
23. **Severability.** This Instrument shall be governed by the laws of the jurisdiction in which the Property is located without regard to any choice of law privileges. In the event that any provision of this Instrument or the Note conflicts with law, such conflict shall not affect other provisions of this Instrument or the Note which can be given effect without the conflicting provisions. To this end, the provisions of this Instrument and the Note are declared to be severable.

In the event that any law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in this Instrument or in the Note, whether considered separately or together with other charges levied in connection with this Instrument and the Note, violates such law, and Borrower is entitled to the benefit of such law, such charge is reduced to the extent necessary to eliminate the violation. The amounts, if any, previously paid to Lender in excess of the amounts payable to Lender pursuant to such charges as reduced shall be applied by Lender to reduce the principal of the indebtedness evidenced by the Note. For the purpose of determining whether any law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all indebtedness which is secured by this Instrument or evidenced by the Note and which constitutes interest, as well as all other charges levied in connection with such indebtedness which constitute interest, shall be deemed to be allocated and spread over the



state term (including any renewal or extension) of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest computed thereby is uniform throughout the state term (including any renewal or extension) of the Note.

24. **Waiver of Statute of Limitations/Waiver of Right to Jury Trial.** Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

Borrower hereby (i) agrees not to elect a trial by jury of any issue triable of right by a jury and (ii) waives any right to trial by jury fully to the extent that any such right shall now or hereafter exist. This waiver of right to trial by jury is separately given, knowingly and voluntarily, by Borrower, and this waiver is intended to encompass individually each instance and each issue as to which the right to a trial by jury would otherwise accrue. Lender is hereby authorized and requested to submit this Instrument to any court having jurisdiction over the subject matter and the parties hereof, so as to serve as conclusive evidence of Borrower's herein contained waiver of the right to trial by jury. Further, Borrower hereby certifies that no representative or agent of the Lender (including Lender's counsel) has represented, expressly or otherwise, to Borrower that Lender will not seek to enforce this waiver of right to trial by jury provision.

25. **Waiver of Marshalling.** Notwithstanding the existence of any other security interest in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided in this Instrument. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided in this Instrument. Borrower, any party who consents to this Instrument, and any party who now or in the future acquires a security interest in the Property and who has actual or constructive notice of this Instrument waives all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by law or provided in this Instrument.

26. **Relationship of Parties.** No right or benefit conferred on Lender under this Instrument shall constitute or be deemed to constitute Lender a partner or a joint venturer with Borrower. Borrower and Lender specifically acknowledge that the relationship between Borrower and Lender is solely that of borrower and lender and that all payments required solely by reason of that relationship.

27. **Mandatory Recourse.** Notwithstanding anything to the contrary contained in this Instrument or applicable law, it is the intent of Borrower and Lender that Borrower and any general partner of Borrower shall be personally liable for:



- a. Loss or damage to the Property caused by physical waste or the gross negligence or willful misconduct of the Borrower, its agents, employees, licensees, or invitees;
- b. Loss or damage suffered by Lender which is subject to indemnification under the provisions of paragraph 6 relating to Hazardous Waste, and/or loss or damage to the property caused by a breach of said paragraph;
- c. Loss or damage suffered by Lender caused by the removal or disposal of any portion of the Property, or of any of the personal property located thereon, after default under this Instrument.
- d. Loss or damage suffered by Lender as a result of or attributable to any fraud or misrepresentation by Borrower contained in this Instrument, the Note, or any other document delivered in connection with the acquisition of the Property or financing, including, without limitation, the loan application relating to the financing secured by this Instrument;
- e. Loss or damage suffered by Lender as a result of the action of: (1) any rents, issues, profits or other receipts generated by or from the Property following any notice of default to Borrower; (2) any insurance proceeds on account of loss or damage to the Property; or (3) any amounts payable in connection with condemnation of all or any portion of the Property.
- f. Any and all costs (including, but not limited to, attorneys' fees whether or not suit is instituted) incurred by Lender in the enforcement of any of the provisions of this Instrument or the Note following a default by Borrower.

For purposes of this paragraph, "misapplication" means Borrower's failure to apply funds to the reasonable and proper costs of ownership, operation, maintenance, repairs and (where applicable) restoration of the Property, and the payment of principal, interest and other amounts due under this Instrument and the Note.

Nothing in this Instrument shall limit Lender's recourse to the Property or any other property or guarantee given or pledged as additional security for the obligations evidenced by the Note and secured by this Instrument.

28. **Assignment of Rents; Appointment of Receiver; Lender in Possession.** Borrower assigns and transfers to Lender all the rents and revenues of the Property due by virtue of any leases or other agreements for the occupancy or use of all or any part of the Property. Borrower authorizes Lender to collect all rents and revenues and by this paragraph, directs each tenant of the Property to pay rents directly to Lender; provided, however, that prior to written notice given by Lender to Borrower of the breach by Borrower of any obligation of Borrower in this Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee



for the benefit of Lender. It is the intent of Borrower and Lender that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Lender to Borrower of a breach by Borrower of its obligations under this Instrument, and without the necessity of Lender entering upon and taking full control of the Property, Lender shall immediately be entitled to possession of all rents and revenues of the Property both past due and unpaid and as they become due and payable. All such rents shall immediately be held by Borrower as trustee for the Benefit of Lender only; provided, however, that the written notice by Lender to Borrower of the breach by Borrower shall contain a statement that Lender exercises its right to rents. Borrower agrees that commencing upon delivery of written notice of Borrower's breach by Lender, each tenant of the Property shall pay rents directly to Lender on Lender's written demand to each tenant personally, by mail or by delivering such demand to each rental space, without any obligation on the part of any tenant to inquire as to the existence of a default by Borrower.

Borrower states that Borrower has not executed any prior assignment of rents, that Borrower has not performed, and will not perform, any acts or has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under this paragraph 28, and that at the time of execution of this Instrument there has been no anticipation or prepayment of any of the rents of the property for more than two (2) months prior to the due dates of such rents. Borrower agrees that Borrower will not after the date of this Instrument collect or accept payment of any rents of the Property more than two (2) months prior to the due dates of such rents. Borrower further agrees that Borrower will deliver to Lender additional assignments of rents and revenues of the property as Lender may from time to time request.

Upon Borrower's breach of any obligation under this Instrument, Lender may enter upon and take full operational control of the Property. Operational control includes, but is not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues, the making of repairs to the Property and the execution or termination of management and maintenance contracts. In the event Lender elects to seek the appointment of such receiver, Lender or the receiver shall be entitled to receive a reasonable fee for managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Lender to Borrower of the breach by Borrower of its obligations under this Instrument shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents and then to the sums secured by this Instrument. Costs include, but are not limited to, attorneys' fee (whether suit is instituted or not), receiver's fees, premium on receiver's bonds, repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and discharging any obligation or liability of Borrower as landlord of the Property. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Lender shall not be liable to Borrower, anyone claiming under or through



Borrower or anyone having an interest in the Property by reason of anything done or left undone by Lender under this paragraph 28.

If the rents of the property are not sufficient to meet the costs of taking control of the Property and collecting the rents, any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Instrument under paragraph 8.

Any taking control of the Property by Lender or the receiver and any application of rents as provided in this paragraph shall not cure or waive any default under this Instrument or invalidate any other right or remedy of Lender under law or as provided in this Instrument. This assignment of rents of the Property shall terminate at such time as this Instrument ceases to secure indebtedness held by Lender.

Non-Uniform Covenants and Agreements. Borrower and Lender further covenant and agree as follows:

29. **Acceleration; Remedies.** Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument or any other loan documents, including, but not limited to, the covenants to pay when due any sums secured by this Instrument, Lender, at its option, may declare all of the sums secured by this Instrument to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law or provided herein. Borrower acknowledges that the power of sale herein granted may be exercised by Lender without prior judicial hearing. Borrower has the right to bring an action to assert the non-existence of a breach or any other defense of Borrower to acceleration and sale. Lender shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, attorneys' fees and costs of documentary evidence, abstracts and title reports.

If Lender invokes the power of sale or any other remedies available to it, Lender or Trustee shall comply with all notice and procedures required of it under, and pursuant to, Washington law. If Lender chooses to sell the Property, Borrower authorizes Trustee to sell the Property to the highest bidder for cash in one or more parcels and in such order as Trustee may determine. Lender or Lender's designee may purchase the Property at any sale.

In the event of a sale, Trustee shall deliver to the purchaser a Trustee's deed conveying the Property in accordance with Washington law. Borrower covenants and agrees to defend generally the purchaser's title to the Property against all claims and demands. The recitals in Trustee's deed shall be prima facie evidence of the truth of the statements contained therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's fees and attorneys' fees and costs of title evidence; (b) to all sums secured by this Instrument in such order as Lender, in Lender's sole discretion, directs; and © the excess, if any, to the person or persons legally entitled thereto.



If the Property is sold pursuant to this paragraph 29, Borrower or any person holding possession of the Property through Borrower shall immediately surrender possession of the Property to the purchaser at such sale upon the purchaser's written demand. If possession is not surrendered upon the purchaser's written demand, Borrower or such person shall be a tenant at sufferance and may be removed by writ of possession or by an action for forcible entry and retainer.

30. **Remedies Cumulative.** Each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.
31. **Release.** Upon payment of all sums secured by this Instrument, Lender shall release this Instrument. Borrower shall pay Lender's reasonable costs incurred in releasing this Instrument.
32. **Substitute Trustee.** Lender, at Lender's option, with or without cause, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder by an instrument recorded in the county in which this Instrument is recorded. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee herein and by applicable law.
33. **Subrogation.** Any of the proceeds of the Note utilized to take up outstanding liens against all or any part of the Property have been advanced by Lender at Borrower's request and upon Borrower's representation that such amounts are due and are secured by valid liens against the Property. Lender shall be subrogated to any and all rights, superior titles, liens and equities owned or claimed by any owner or holder of any outstanding liens and debts, however remote, regardless of whether said liens or debts are acquired by Lender, by assignment or are released by the holder thereof upon payment.
34. **Partial Invalidity.** In the event any portion of the sums intended to be secured by this Instrument cannot be lawfully secured hereby, payments in reduction of such sums shall be applied first to those portions not secured hereby.
35. **Vendor's Lien; Renewal and Extension.** The Note secured hereby is primarily secured by the Vendor's Lien retained in the Deed of even date herewith conveying the Property to Borrower, which Vendor's Lien has been assigned to Lender, this Instrument being additional security therefore.
36. **Future Advances.** Upon request of Borrower, Lender, at Lender's option so long as this Instrument secure indebtedness held by Lender, may make Future Advances to Borrower. Such Future Advances, with interest thereon, shall be secured by this Instrument when evidenced by promissory Note stating that said Note are secured hereby. At no time shall the principal amount of the indebtedness secured by this Instrument, not including sums advanced



in accordance herewith to protect the security of this Instrument, exceed original amount of the Note (US \$700,000.00) plus the additional sum of US \$ none.

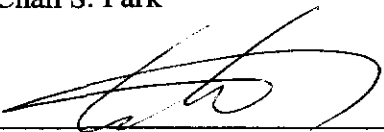
37. **Change of Name.** Borrower will not, directly or indirectly, without the Lender's written consent, change the name of the Borrower or the Property.
38. **Trade Names.** Borrower will not, directly or indirectly, without the Lender's written consent, use any name other than the Borrower's true name or such other trade names as previously disclosed to Lender.
39. **Change of Business.** Borrower will not, directly or indirectly, without the Lender's written consent, make any material change in the nature of its business at the Property as it is being conducted as of the date hereof.
40. **Place of Business.** Borrower will not, directly or indirectly, without the Lender's written consent, change the location of its business or have or maintain any other place of business.

IN WITNESS WHEREOF, Borrower has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

Date: 9-18-01



Chan S. Park



Mee Young ~~Park~~ Lee

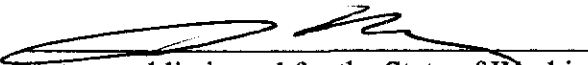
STATE OF WASHINGTON)
)ss
COUNTY OF King)

On this day personally appeared before me Chan S. Park and Mee Young ^{Lee}~~Park~~, to me known to be individuals who executed the foregoing instrument, and acknowledged to me that they executed the same for the uses and purposed therein mentioned.



GIVEN UNDER MY HAND and official seal this 18th day of September, 2001.




Notary public in and for the State of Washington,
residing at Kirkland
My Commission expires: 2-19-04

h:\chae\anderson.release.dot
File#2109003.001



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Skagit County Auditor