

Recording Requested by
and When Recorded Mail to:

U.S. Bank National Association
c/o Louis G. Henry
Miller Nash LLP
Suite 3500
111 S.W. Fifth Avenue
Portland, Oregon 97204

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Skagit County Auditor
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**MORTGAGE,
ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT, AND FIXTURE FILING
(Sedro Wooley Property) FIRST AMERICAN TITLE CO.**

10/3/19

Document Title: Mortgage, Assignment of Leases and Rents, Security
Agreement and Fixture Filing

Mortgagor: NATIONAL FOOD CORPORATION

Mortgagee: U.S. BANK NATIONAL ASSOCIATION

Legal Description: Portion of SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of S28, T35N, R6E; NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of
S28, T35N, R6E; and SE $\frac{1}{4}$ of NE $\frac{1}{4}$ (except NE $\frac{1}{4}$ thereof) of S29,
T35N, R6E, all in Skagit County, Washington

Assessor's Parcel Nos.: 350628-2-005-0002 P41958; 350628-3-003-0002 P41967; and
350629-1-007-0001 P42000

**MORTGAGE,
ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT, AND FIXTURE FILING
(Sedro Wooley Property)**

This mortgage, assignment of leases and rents, security agreement and fixture filing ("Mortgage") is dated August __, 2002.

Mortgager: NATIONAL FOOD CORPORATION
Suite A
1930 Merrill Creek Parkway
Everett, Washington 98203

Mortgagee: U.S. BANK NATIONAL ASSOCIATION
Suite 810
111 S.W. Fifth Avenue
Portland, Oregon 97204

RECITALS

A. Mortgagor is the owner of certain real property located in Skagit County, Washington, and legally described on Exhibit A attached hereto and by this reference made a part hereof (the "Land");

B. Pursuant to the promissory note of even date herewith in the amount of \$8,000,000 (the "Note"), U.S. Bank has made a loan to Mortgagor.

C. Mortgagor's obligations under the Note are to be secured by, among other things, this Mortgage. Capitalized terms used in this Mortgage that are not defined herein have the meaning given to such terms in the Credit Agreement between Mortgagor and U.S. Bank of even date herewith (the "Credit Agreement").

ARTICLE I

GRANT IN TRUST

1.1 Grant. For good and valuable consideration, and for the purposes and upon the terms and conditions in this Mortgage, Mortgagor irrevocably grants, bargains, transfers, sells, assigns, and conveys to Mortgagee, its successors and assigns, with right of entry and possession and grants a security interest in, all of Mortgagor's right, title, and interest in and to the following, whether now owned or hereafter acquired (collectively, the "Subject Property"):

(a) The Land;

(b) All buildings, structures, and improvements (including asphalt paving for parking), and all additions or alterations now or hereafter erected on the Land, including but not limited to, any attachment, apparatus, and other articles now or hereafter attached to said buildings, structures, and improvements now owned or hereafter acquired by Mortgagor (collectively, the "Improvements");

(c) All materials, supplies, equipment, wind machines, irrigation equipment, apparatus, personal property, goods, fixtures, and other items now or hereafter attached to or installed in (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, all partitions, window screens and shades, drapes, rugs, and other floor coverings, furniture, furnishings, awnings, motors, engines, boilers, furnaces, appliances, plumbing, sprinkler systems, fire prevention or extinguishing apparatus and equipment, water tanks, light fixtures, communication systems, built-in furniture, antennas and all equipment, fixtures and fittings used in connection with the generation, distribution, regulation or metering of air, water, heat, electricity, fuel or refrigeration or for ventilating for sanitary purposes or for the exclusion of vermin or insects or for the removal of dust, refuse or garbage, it being intended and agreed that all such items be conclusively deemed to be fixtures, now owned or hereafter acquired by Mortgagor (collectively, the "Fixtures");

(d) Crops. All crops of every type and description, growing or hereafter grown, on the Land, including crops, crop proceeds and produce, supplementary price payments and payments made in lieu of crop proceeds, including crop insurance payments, all of Mortgagor's now existing or hereafter acquired right, title and interest in and right to receive any payments, whether in cash, crops, or farm products from or through any federal or state government agency or program, and including, without limitation, all crops, farm products, payments in kind, deficiency payments, letters of entitlement, warehouse receipts, storage payments, diversion payments and conservation reserve payments, and all products and proceeds thereof, and all water rights arising out of or connected in any way with the Land or any portion thereof (collectively, the "Crops").

(e) Leases and Rents. All leases, subleases, licenses, concessions, or other agreements, now or hereafter in effect, which grant to a third party a possessory interest in, or the right to use, all or any portion of the Subject Property (collectively the "Leases"), and the rents, issues, profits, royalties, income, and other benefits payable thereunder, including, without limitation, all security deposits, advance rentals and deposits for payments of a similar nature or otherwise arising from the use or enjoyment of all or any portion of the Subject Property (collectively, the "Rents");

(f) Easements. All easements, rights-of-way (including in any open or proposed street), sidewalks, alleys, access rights, development strips and gores of land, waters, all water rights arising out of in any way connected with the Land or any portion thereof and powers and shares of stock evidencing the same and other rights, used in connection with the Subject Property or as a means of access thereto or which are



otherwise of benefit thereto to the users thereof, and all tenements, hereditaments, appurtenances, and licenses thereof and thereto;

(g) Condemnation Awards, Insurance Proceeds. Any and all awards (or claims for awards) made for taking by public or private improvement, eminent domain, by any event in lieu thereof, or decrease in value of all or any part of the Subject Property, including, without limitation, awards for severance damages, and all right, title, and interest of Mortgagor in and to any proceeds (or claims for proceeds) of casualty, liability, or other insurance pertaining to the Subject Property or otherwise required hereunder, including all returned premiums or other payments;

(h) Claim. Any claim or demand against anyone with respect to damage to the Subject Property, including, without limitation, damage arising from any defect in the design or construction of the Improvements or in the condition of the Land, Fixtures, or Improvements;

(i) Deposit. Deposits of security or advance payment made by or on behalf of Mortgagor to others with respect to (i) insurance policies relating to the Subject Property, (ii) utility services for the Subject Property, and (iii) maintenance, repair, or similar services for the Subject Property; any refunds or rebates of taxes, insurance premiums, or assessments on the Subject Property;

(j) Parking Facilities. Any parking facilities, covenants, leases, rights, or easements located other than on the Land and used or intended to be used in connection with the operation of the Subject Property;

(k) Entitlements and Permits. All licenses, contracts, management agreements, franchise agreements, permits, rights, certificates, site plan reviews, environmental approvals (including an environmental impact statement or report if required under applicable law for Mortgagor's acquisition or disposition of the Land, or for any other operations of Mortgagor), sewer and waste discharge permits, water appropriative rights and permits, zoning and land use entitlements and other authorizations, whether now existing or hereafter issued to or attained by or on behalf of Mortgagor that relate to or concern in any way the acquisition, ownership, development, occupancy, use, operation, maintenance, management, restoration, or disposition of all or any part of the Subject Property, and are given or issued by any governmental agency or quasi-governmental authority as the same may be modified, amended, or supplemented from time to time (collectively the "Authorizations"), and all accounts, franchises, and general intangibles (including without limitation trademarks, trade names, and symbols) (collectively, the "Contracts"); and

(l) Additional Interests. All interests, estate, or other claims, both in law and in equity, that Mortgagor now has or hereafter may acquire in the Subject Property or any part thereof or any interest therein.



ARTICLE II

SECURITY AGREEMENT; FIXTURE FILING

2.1 Fixture Filing. This Mortgage constitutes a financing statement filed as a fixture filing in the official records of the county in which the Subject Property is located with respect to any and all Fixtures included within the term "Subject Property" as used herein and with respect to any goods or other personal property that may now be or hereafter become such fixtures.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

3.1 Warranties, Representations, and Covenants of Mortgagor. Mortgagor hereby warrants, represents, and covenants as follows:

(a) Mortgagor is a corporation formed and existing under the laws of the state of Washington and has been duly authorized to execute, acknowledge, and deliver this document and to perform the obligations stated herein.

(b) The Fixtures are not used or bought for personal, family, or household purposes.

(c) Mortgagor lawfully possesses and holds a fee estate in and to the Land and good and marketable title to the Subject Property, without limitation on the right to encumber, and this Mortgage is a valid, enforceable lien on the Subject Property, subject only to Permitted Liens (as that term is defined in the Credit Agreement of even date herewith among Mortgagor and U.S. Bank).

(d) There are no liens, encumbrances, claims or security interests of any nature whatsoever in or to the Subject Property, or any item thereof, which now have or will have with the passage of time or some act, such as filing, recording or giving of notice, priority over the lien and security interest herein granted, except for the Permitted Liens.

(e) Mortgagor will not remove from the Subject Property, lease, sell, convey, or in any other manner transfer any tangible personal property constituting Secured Property or remove it from Land covered by this Mortgage without Mortgagee's prior written consent (which consent shall not be withheld unreasonably and may be conditioned upon receipt by U.S. Bank of the net proceeds resulting from any proposed sale or other transfer of such Secured Property). Such Secured Property shall be subject to no lien, encumbrance, or security interest other than this Mortgage and the Permitted Liens.



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(f) Subject to subsection (d) hereof, (i) from time to time within 15 days after request by Mortgagee, Mortgagor shall execute, acknowledge, and deliver to Mortgagee such security agreements or instruments, in form and substance satisfactory to Mortgagee, covering the Secured Property which, in the reasonable opinion of Mortgagee, are necessary to evidence or perfect the lien on the Subject Property granted under this Mortgage; and (ii) at the same time Mortgagor shall execute, acknowledge, and deliver each financing statement, renewal, affidavit, certificate, continuation statement, or other document that Mortgagee requests in order to perfect, preserve, extend, or maintain the security interest under, and the priority of, the liens granted on the Subject Property pursuant to this Mortgage. However, neither a request so made by Mortgagee nor the failure of Mortgagee to make such a request shall be construed as a release of such property or any part thereof from the lien of this Mortgage, it being understood and agreed that this covenant and any such chattel mortgage, security agreement, or other similar security instrument delivered to Mortgagee are cumulative and given as additional security.

ARTICLE IV

OBLIGATIONS SECURED

4.1 Obligations Secured. Mortgagor makes the foregoing grant and assignment for the purpose of securing the following obligations (collectively referred to herein as the "Secured Obligations"):

(a) The payment to Mortgagee of the sum of \$8,000,000 (or such sums as may be actually outstanding or advanced under the Note), with interest thereon according to the term of the Note, and payment and performance of all future advances and other obligations under the Note, whether such advances are mandatory or otherwise;

(b) Payment of all sums expended or advanced by Mortgagee pursuant to the terms hereof, together with interest thereon as provided herein;

(c) Payment and performance of all obligations of Mortgagor under this Mortgage;

(d) Payment and performance of all obligations of Mortgagor under the Loan Documents; and

(e) All modifications, extensions, and renewals of any of the obligations to the Mortgagee secured hereby, however evidenced.

4.2 Obligations. The term "obligations" is used herein in its broadest and most comprehensive sense and shall be deemed to include without limit all interest and charges, prepayment charges, late charges, and loan fees at any time accruing under or properly assessed on any of the Secured Obligations.



4.3 Incorporation. All terms of the Secured Obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Subject Property shall be deemed to have notice of the terms of the Secured Obligations.

ARTICLE V

ASSIGNMENT OF LEASES AND RENTS

5.1 Assignment of Rents and Leases. As part of the consideration for the indebtedness evidenced by the Note, and not as additional security therefor, Mortgagor hereby absolutely and unconditionally assigns and transfers to Mortgagee all its right, title, and interest in and to (a) all Leases, if any, (b) all guaranties of tenants' or occupants' performances under the Leases, and (c) all Rents due, which may become due, or to which Mortgagor is now or hereafter may become entitled or may demand or claim (including Rents coming due during any redemption period), arising or issuing from or out of any and all Leases, including without limitation minimum, additional, percentage, and deficiency rents and liquidated damages.

5.2 Collection of Rents. Prior to the occurrence of an Event of Default, Mortgagor shall have a license to collect and receive, and shall collect and receive, all Rents of the Subject Property as trustee for the benefit of Mortgagee and Mortgagor, and Mortgagor shall apply all Rents so collected first to the payment of Impositions (as that term is defined in Section 6.2 of this Mortgage) on the Subject Property prior to delinquency, second to the cost of insurance, maintenance and repairs required by the terms of this Mortgage, third to the costs of discharging the liability of Mortgagor under the Leases, and fourth to the Secured Obligations, with the balance, if any, so long as no Event of Default has occurred, to the account of Mortgagor. Following the occurrence of an Event of Default and expiration of the cure period set forth in Section 10.2 of the Credit Agreement without cure having been effected, and without the necessity of Mortgagee entering upon and taking and maintaining full control of the Subject Property in person, by agent, or by a court-appointed receiver, Mortgagee shall immediately be entitled to possession of all Rents from the Subject Property as the same become due and payable, including without limitation Rents then due and unpaid, and all such Rents shall immediately upon occurrence of such Event of Default be held by Mortgagor as trustee for the benefit of Mortgagee only. Mortgagor hereby authorizes each tenant upon receipt of notice from Mortgagee to pay all Rents directly to Mortgagee. Upon receipt of written demand from Mortgagee, Mortgagor hereby agrees to direct each tenant or occupant of the Subject Property to pay all Rents to Mortgagee on Mortgagee's written demand therefor, without any liability on the part of said tenant or occupant to inquire further as to the existence of a default by Mortgagor. Mortgagor hereby authorizes Mortgagee to make such direction to tenants and occupants upon Mortgagor's failure to do so as required herein. Payments made to Mortgagee by tenants or occupants shall, as to such tenants and occupants, be in discharge of the payors' obligations to Mortgagor. Mortgagee may exercise, in Mortgagee's or Mortgagor's name, all rights and remedies available to Mortgagor with respect to collection of Rents. Nothing herein contained shall be construed as obligating Mortgagee to perform any of Mortgagor's obligations under any of the Leases.



5.3 Mortgagor's Representations and Warranties. Mortgagor hereby represents and warrants to Mortgagee that Mortgagor has not executed and will not execute any other assignment of the Leases or Rents, that Mortgagor has not performed and will not perform any acts and has not executed and will not execute any instrument that would prevent Mortgagee from exercising its rights under this Mortgage, and that at the time of execution of this Mortgage there has been no anticipation or prepayment of any of the Rents prior to the due dates thereof. Mortgagor further represents and warrants to Mortgagee that all Leases, if any, are in good standing and, to Mortgagor's knowledge, there is no default thereunder, whether by Mortgagor or lessee, nor to Mortgagor's knowledge any event or condition that, with notice or the passage of time or both, would result in a default thereunder, except as previously disclosed in writing to Mortgagee.

5.4 Leases of the Subject Property. Mortgagor shall comply with and observe Mortgagor's material obligations as landlord under all Leases, if any, and shall do all that is necessary to preserve all Leases in force and free from any right of counterclaim, defense, or setoff. Without the prior written consent of Mortgagee, Mortgagor shall not terminate or modify any Lease. At Mortgagee's request, Mortgagor shall furnish Mortgagee with executed copies of all Leases now or hereafter existing. Upon demand of Mortgagee, Mortgagor shall obtain subordination agreements from lessees under the Leases in form and substance satisfactory to Mortgagee.

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

5.6 Application of Rents. All Rents collected subsequent to an Event of Default hereunder shall be applied first to the costs, if any, of taking control of and managing the



Subject Property and collecting the Rents, including, without limitation, reasonable attorney fees, receiver's fees, premiums on receiver's bonds (if any), costs of maintenance and repairs to the Subject Property, premiums on insurance policies, taxes, assessments, and other charges on the Subject Property, and the costs of discharging any obligation or liability of Mortgagor under the Leases, and then to the Secured Obligations. Mortgagee or the receiver shall be liable to account only for those Rents actually received. Mortgagee shall not be liable to Mortgagor, anyone claiming under or through Mortgagor, or anyone having an interest in the Subject Property by reason of anything done or left undone by Mortgagee under this Article V of this Mortgage.

5.7 Deficiencies. To the extent, if any, that the costs of taking control of and managing the Subject Property, collecting the Rents, and discharging obligations and liabilities of Mortgagor under the Leases exceed the Rents of the Subject Property, the excess sums expended for such purposes shall be indebtedness secured by this Mortgage. Such excess sums shall be payable upon demand by Mortgagee and shall bear interest from the date of disbursement at the Default Interest Rate.

5.8 Lender Not Mortgagee in Possession. Nothing herein shall constitute Mortgagee a "mortgagee in possession" prior to its actual entry upon and taking possession of the Subject Property. Entry upon and taking possession of the Subject Property by a receiver shall not constitute possession by Mortgagee.

5.9 Enforcement. Mortgagee may enforce the assignment provided by this Article V of this Mortgage without first resorting to or exhausting any security or collateral for the Secured Obligations. The assignment provided by this Article V of this Mortgage shall terminate at such time as this Mortgage ceases to secure payment of the Secured Obligations.

ARTICLE VI

RIGHTS AND DUTIES OF THE PARTIES

6.1 Performance of Secured Obligations. Mortgagor promptly shall pay and perform each Secured Obligation when due, or shall cause the Mortgagor to promptly pay and perform each Secured Obligation when due.

6.2 Impositions. Mortgagor shall pay all Impositions prior to delinquency, subject to Section 6.2(b) below. "Impositions" means all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever (including without limitation, nongovernmental review or assessments such as maintenance charges, water and sewer rents and charges, owner association dues, or fees, levies, or charges resulting from covenants, conditions, and restrictions affecting the Subject Property) which are assessed or imposed upon the Subject Property or upon the Crops as and when harvested, or become due and payable, and that create, may create, or appear to create, a lien upon all or part of the Subject Property. However, if any Imposition is payable in installments without fine or penalty, Mortgagor may pay the same in such installments, together with any accrued interest as



the same become due and prior to the addition of any fine, penalty, interest, or cost for nonpayment.

(a) "Impositions" also includes (i) any tax or assessment on the Subject Property in lieu of or in addition to the Impositions payable by Mortgagor under Section 6.2 of this Mortgage (ii) any revenue, documentary or license fee, stamp or other tax or assessment imposed on Mortgagee and measured by or based in whole or in part upon ownership of the Note or this Mortgage or the amount of the outstanding obligations secured hereby. Mortgagor shall pay and discharge the same as provided in Section 6.2 of this Mortgage; provided, however, if the result of such payment is to make any transaction contemplated hereby usurious or otherwise in violation of law or if it shall be unlawful for Mortgagor to make such payment, at the option of Mortgagee and with the consent of Mortgagee, Mortgagor shall not be required to make such a payment. Mortgagor shall have no obligation to pay any franchise, excise, estate, inheritance, income, excess profits, or similar tax levied on Mortgagee or on the obligations secured hereby.

(b) Mortgagor may contest or object to the amount or validity of any Imposition by appropriate legal proceeding if, at least ten days prior to the delinquency date of the Imposition, (i) Mortgagor gives written notice to Mortgagee of Mortgagor's intent to contest or object to the same, (ii) Mortgagor demonstrates to Mortgagee's satisfaction that the legal proceedings shall conclusively operate to prevent the sale of any part of the Subject Property to satisfy the Imposition prior to final determination of such proceeding; and (iii) if requested by Mortgagee, Mortgagor immediately deposits with Mortgagee any funds or other forms of assurance Mortgagee in good faith from time to time determines, in its sole discretion, appropriate to protect it from the consequences of Mortgagor being unsuccessful in the contest. When the contest is finally decided, whether by judicial proceedings or otherwise, Mortgagor shall promptly pay the Imposition contested, to the extent it is or may become a lien on the Subject Property.

(c) Mortgagor shall not initiate or voluntarily acquiesce in the joint assessment of the real and personal property constituting the Subject Property or any other procedure whereby the lien of the real property taxes and the lien of the personal property taxes shall be assessed, levied or charged to the Subject Property as a single lien, except as otherwise allowed by Section 6.2(b) of this Mortgage.

6.3 Liens, Encumbrances and Charges. Mortgagor shall immediately discharge any lien not approved by Mortgagee in writing, except the Permitted Liens; provided that Mortgagor shall pay all indebtedness secured by the Permitted Liens as such indebtedness becomes due. Mortgagor shall have the right to contest in good faith the validity of any such lien, encumbrance, or charge if Mortgagor first deposits with Mortgagee a bond or other security satisfactory to Mortgagee in such amounts as Mortgagee reasonably shall require, but not more than 150 percent of the amount of the claim, and if Mortgagor thereafter diligently proceeds to cause such lien, encumbrance, or charge to be removed and discharged. If Mortgagor fails to discharge any such lien, encumbrance, or charge, then in addition to any other right or remedy of



Mortgagee, Mortgagee may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due or by procuring the discharge of such lien, encumbrance, or claim by depositing in court a bond for the amount claimed or otherwise providing security for such claim, or in such manner as may be prescribed by law. Subject to these provisions, Mortgagor shall pay when due all obligations secured by or reducible to liens and encumbrances that now or hereafter shall encumber or appear to encumber all or any part of the Subject Property (or any interest therein), whether senior or subordinate to the lien of this Mortgage.

6.4 Required Insurance. Mortgagor shall obtain and at all times maintain and keep in force: (a) insurance against loss or damage to the Improvements, by fire and any of the risk covered by insurance now known as "fire and extended coverage" (including builder's risk during construction and mud/flood insurance if the real property is within a flood zone as described in the Federal Emergency Management Agency flood hazard boundary maps or flood insurance rate maps) in an amount not less than the full replacement value of the Improvements (exclusive of the cost to foundations, excavations, and footings); (b) if requested by Mortgagee, business interruption insurance in such amounts as are reasonably satisfactory to Mortgagee, (c) during the course of any construction or repair of Improvements on the Subject Property, comprehensive public liability insurance (including coverage for construction of Improvements occurring after execution of this Mortgage) on an occurrence basis against claims for personal injury including, without limitation, bodily injury, death or property damage occurring on, in, or about the Land and the adjoining streets, sidewalks and passageways, such insurance to afford immediate minimum protection to a limit of not less than that required by Mortgagee with respect to personal injury or death to any one or more persons or damage to property; (d) during the course of any construction or repair of the Improvements on the Land, workers' compensation insurance (including employer's liability insurance, if required by Mortgagee) for all employees of Mortgagor engaged on or with respect to the Land in such amounts as are reasonably satisfactory to Mortgagee, or, if such limits are established by law, in such amounts; (e) during the course of any construction or repair of the Improvements on the Land, builder's completed value risk insurance against "all risk of physical loss," including collapse and transit coverage, during the construction of such Improvements in nonreporting form, covering the total value of work performed and equipment, supplies, and materials furnished; together with "permission to occupy and completion or occupancy" endorsement; (f) insurance against loss or damage to the Fixtures by fire and other risk covered by insurance of a type generally known as "fire and extended coverage"; (g) comprehensive public liability insurance and property damage insurance applicable to the Subject Property in amounts satisfactory to Mortgagee; (h) such other insurance that is usual and customary in the industry, and in such amounts, as reasonably may be required from time to time by Mortgagee against the same or other hazards, which insurance may include flood insurance. The policies of insurance carried in accordance with this Section 6.4 shall contain a "Replacement Cost Endorsement" reasonably satisfactory to Mortgagee. All policies of insurance shall be issued by companies and in amounts satisfactory to Mortgagee. All policies of insurance shall have attached thereto a lender's loss payable endorsement for the benefit of Mortgagee in a form satisfactory to Mortgagee. Mortgagor shall furnish Mortgagee with an original policy or certified copy thereof of all policies of required insurance. In the case of workers' compensation insurance supplied by a governmental agency or fund, Mortgagor shall supply Mortgagee with satisfactory evidence of coverage. At least 30 days prior to the



expiration of each such policy, Mortgagor shall furnish Mortgagee with evidence satisfactory to Mortgagee of the payment of premiums and the reissuance of a policy continuing insurance in force as required by this Mortgage. All policies shall contain a provision that such policies may not be canceled or amended, which term shall include any reduction in the scope or limits of coverage, without at least 30 days' prior written notice to Mortgagee.

6.5 Damages: Insurance and Condemnation Proceeds. All awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation for public or private use affecting all or any part of, or any interest in, the Subject Property, all other claims, awards, and judgments for damages to, or decrease in value of, all or any part of, or any interest in, the Subject Property, and all proceeds of any insurance policies payable by reason of loss sustained to all or which may accrue on any of the foregoing (collectively, "Proceeds"), are absolutely and irrevocably assigned to and shall be paid to Mortgagee. Mortgagee may apply all or any of the Proceeds to its expenses in settling, prosecuting, or defending the claim ("Expenses") and apply the balance to the Secured Obligations in any order it determines, regardless of whether its security is impaired and regardless of Mortgagor's obligation to complete and restore the Subject Property pursuant to Section 6.7(c), and/or release all or any part of the Proceeds to Mortgagor upon any conditions Mortgagee may impose. In addition, Mortgagee may commence, appear in, defend, or prosecute any assigned claim or action and may adjust, compromise, settle, and collect all claims and awards assigned to it, but shall not be responsible for any failure to collect any claim or award, regardless of the cause of the failure.

6.6 Possible Rebuilding of Structures. Notwithstanding the provisions of Section 6.5 of this Mortgage, if Mortgagor elects to rebuild, replace, repair, or restore the Subject Property, Mortgagee shall permit Proceeds in excess of the Expenses, whether or not held by it, to be used for rebuilding, replacement, repair, or restoration. However, where the Proceeds or damage are in excess of \$25,000, Mortgagee may condition its permission upon depositing with Mortgagee all funds that Mortgagee determines are needed to pay all the cost of rebuilding, replacement, repair, or restoration (including without limit taxes, financing charges, insurance, and rent during the repair period), upon establishment of an arrangement for lien releases and disbursement of funds acceptable to it and on delivery to it of:

(a) plans and specifications for the work of repairs or restoration ("Work"), a contract for the Work signed by a contractor acceptable to Mortgagee, a cost breakdown for the Work, and a payment and performance bond for the Work (if then available on a commercially practical basis), unless, in the sole judgment of Mortgagee, the general contractor is of sufficient financial strength and reputation so that such general contractor is reasonably acceptable without such bond, all of which shall be acceptable to Mortgagee;

(b) evidence acceptable to Mortgagee: (i) that Mortgagor will commence Work promptly and diligently complete such Work; (ii) that after completion of the Work the income from the Subject Property will be sufficient to pay all expenses and debt service for the Subject Property or adequate provision is made therefor; (iii) of



continuation of leases acceptable to and required by Mortgagee (if applicable); (iv) that after completion of the Work the size, capacity, and total value of the Subject Property will be at least as great as it was before the damage or condemnation occurred; (v) that there has been no material or substantial adverse change in the financial condition or credit of Mortgagor since the date of this Mortgage; and (vi) of satisfaction of any additional conditions that Mortgagee may establish to protect its security; and

(c) requirements of insurance companies and any bureau or agency that establishes standards of insurability, which laws, covenants, or requirements affect the Subject Property and pertain to acts committed or conditions existing thereon, including without limit such work or alteration, improvement, or demolition as such laws, covenants, or requirements mandate.

Mortgagee shall act reasonably in exercising its discretion under this Section 6.6 of this Mortgage. Mortgagor acknowledges that the specific conditions described above are reasonable.

6.7 Maintenance and Preservation of the Subject Property. Mortgagor covenants:

(a) Mortgagor (i) shall manage and operate the Subject Property in accordance with good management practices for the purpose for which the Property is used and shall operate and keep the Improvements in good condition and repair; (ii) shall not remove, demolish, or materially change management practices without the prior written consent of Mortgagee, which consent shall not be withheld unreasonably, (iii) shall comply with all laws, ordinances, rules and regulations, and material covenants, conditions, and restrictions (including those relating to horticulture, land use and development, water rights, and use, noise and pollution) now or hereafter affecting the Subject Property, or any portion thereof or interest therein; (iv) shall not commit or permit any waste or deterioration of Subject Property or any part thereof or interest therein; (v) shall not commit, suffer or permit any act to be done in or upon the Subject Property or any part thereof or interest therein in violation of any law, ordinance, rule, or regulation.

(b) Except with Mortgagee's prior written consent, not to remove or demolish the Subject Property or any part thereof, except in the ordinary course of Mortgagor's business; not to materially alter, restore, or add to the Subject Property; and not to initiate or acquiesce in any change in any zoning or other land classification which affects the Subject Property; and not to take any action which would result in the loss of the full right to use the Subject Property for its present use.

(c) To complete or restore promptly and in good and workmanlike manner the Subject Property or any material part thereof which may be damaged or destroyed, without regard to whether Mortgagee requires the Proceeds to be used to reduce the Secured Obligations as provided in Section 6.5 of this Mortgage.



(d) Not to suffer any material violation of any, and to comply in all material respects with, all (i) laws, ordinances, regulations, and standards, (ii) covenants, conditions, restrictions, and equitable servitudes, whether public or private.

(e) Not to commit or permit waste of the Subject Property and to take such action as is necessary to prevent the Subject Property or any use or occupancy thereof from becoming a public or private nuisance.

(f) To promptly comply with all material obligations of Mortgagor under the Leases and the Contracts.

(g) To allow any representative of Mortgagee to visit and inspect the Subject Property, subject to reasonable advance notice and consistent with Mortgagor's need to maintain bio-security at production facilities, to examine the books of account and other records and files of Mortgagor with respect to the Subject Property, to make copies thereof and to discuss the affairs, business, finances, and accounts of Mortgagor, with its officers, employees, and accountants, all at such reasonable time and as often as Mortgagee may desire. Mortgagor shall reimburse Mortgagee for out-of-pocket costs and expenses incurred in connection with making any such examination or inspection.

(h) Keep at all times books of records and accounts in which full, true and correct entries will be made of all dealings or transactions in relation to Mortgagor's business and office with respect to the Subject Property.

(i) To do all other acts that from the character or use of the Subject Property are reasonably necessary to maintain and preserve its value.

6.8 Defense and Notice of Losses, Claims, and Actions. Mortgagor shall protect, preserve, and defend the Subject Property and title and right of possession thereto, the security hereof, and the rights and powers of Mortgagee hereunder at Mortgagor's sole expense against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing of the assertion of any claim involving the filing of any action or proceeding against, or the occurrence of any damage to, the Subject Property, and of any condemnation offer or action.

6.9 Compensation, Exculpation, Indemnification. Mortgagor shall pay to Mortgagee standard compensation for services rendered concerning this Mortgage, including, without limit, any statement of amounts owing under any Secured Obligation and a reasonable and customary fee for administering the disbursement of Proceeds to the cost of reconstruction following damage, destruction, or condemnation of the Subject Property. Mortgagee shall not directly or indirectly be liable to Mortgagor or any other person as a consequence of the following, and any liability to Mortgagor that Mortgagee otherwise would have for the following hereby is waived and released by Mortgagor: (a) the exercise of the rights, remedies, or powers granted to Mortgagee in this Mortgage; (b) the failure or refusal of Mortgagee to perform or discharge any obligation or liability of Mortgagor under any agreement related to the Subject Property or under this Mortgage; or (c) any loss sustained by Mortgagor or any third party



resulting from Mortgagee's failure to lease the Subject Property after an Event of Default or from any other act or omission of Mortgagee in managing the Subject Property after an Event of Default, unless the loss is caused by the willful misconduct or bad faith of Mortgagee.

Mortgagor hereby agrees that it shall indemnify Mortgagee against, and hold Mortgagee harmless from, all losses, damages, liabilities, claims, causes of action, judgments, court costs, attorney fees, and other legal expenses, cost of evidence of title, cost of evidence of value, and other expenses which either may suffer or incur (w) by reason of this Mortgage; (x) by reason of the execution of this trust or the performance of any act required or permitted hereunder or by law; (y) as a result of any failure of Mortgagor to perform Mortgagor's obligations; or (z) by reason of any alleged obligation or undertaking on Mortgagee's part (in performance of any of Mortgagor's obligations) to perform or discharge any of the representations, warranties, conditions, covenants, or other obligations contained in any other document related to the Subject Property. Mortgagor shall pay all indebtedness arising under this Section 6.9 immediately upon demand by Mortgagee and, if not timely paid, Mortgagor shall pay interest that accrues thereon from the date the indebtedness arises until paid at the Default Interest Rate. Mortgagor's duty to indemnify Mortgagee shall survive the release and reconveyance or any partial release or reconveyance of this Mortgage. All sums payable under this Mortgage shall be paid without notice, demand, counterclaim, setoff, or deduction.

6.10 Utilities. Mortgagor shall pay or cause to be paid when due all utility charges that are incurred by it for the benefit of the Subject Property for gas, electricity, water, or sewer services furnished to the Subject Property and all other assessments or charges of a similar nature (whether public or private) affecting the Subject Property or any portion thereof, whether or not such taxes, assessments, or charges create liens thereon.

6.11 Actions Affecting the Subject Property. Mortgagor agrees to appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee. Mortgagor shall pay all costs and expenses, including cost of evidence of title and attorney fees and expenses, in any such action or proceeding in which Mortgagee may appear.

6.12 Actions by Mortgagee to Preserve the Subject Property; Expenses. If Mortgagor fails to make any payment or do any act as and in the manner provided hereunder or in the Note, Mortgagee in its own discretion without obligation to do so and without notice or demand upon Mortgagor, and without releasing Mortgagor from any obligation may make any payment or perform any act to be made or performed by Mortgagor as and in the manner provided herein to such extent as either may deem necessary to protect the security hereof in connection therewith (without limiting their general powers), Mortgagee shall have and is hereby given the right (subject to the provisions of Section 10.2 and Section 10.3 of the Credit Agreement) but not the obligation (a) to enter upon and take possession of the Subject Property; (b) to make additions, alterations, repairs, and improvements to the Subject Property that Mortgagee may consider necessary or proper to keep the Subject Property in good condition or repair; (c) to commence or to appear and participate in any action or proceeding affecting or which may affect the security hereof or the rights or powers of Mortgagee; (d) to pay, purchase, contest, or compromise any encumbrance, claim, charge, lien, or debt which in the reasonable



judgment of Mortgagee may affect or appears to affect the security of this Mortgage or to be prior or superior hereto, except for such liens as are permitted hereunder; (e) to purchase insurance covering all or any part of the Subject Property; and (f) in exercising such powers to pay necessary expenses including employment of counsel or other necessary or desirable consultants. Mortgagor immediately upon demand therefor by Mortgagee shall pay all costs and expenses incurred by Mortgagee in connection with the exercise by Mortgagee of the foregoing rights, including, without limitation, costs and evidence of title, court costs, appraisals, surveys, and attorney and consultant fees. If Mortgagee shall incur or expend any sums, including reasonable attorney fees and disbursements in connection with evaluating and/or responding to inquiries or requests from Mortgagor or any proposed transferee of Mortgagor of all or any part of any interest in the Note, this Mortgage, or in considering any transfer of the same, all such sums shall be immediately paid by Mortgagor to Mortgagee on demand therefor.

6.13 Subrogation. Mortgagee shall be subrogated to the lien of any encumbrances, whether released of record or not, paid in whole or in part by Mortgagee pursuant to this Mortgage or by the proceeds of any loan, advance, or payment secured by this Mortgage.

6.14 Hazardous Substances. Mortgagor hereby represents and warrants to Mortgagee that, as of the date hereof and continuing hereafter the Subject Property and each portion thereof (i) are not and have not been a site for the use, generation, manufacture, storage, disposal, or transportation of any oil or petrochemical products, PCBs, asbestos, urea formaldehyde, flammable explosives, radioactive materials, hazardous wastes, toxic substances, or related materials, including, without limitation, any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively, "Hazardous Materials"); (ii) are presently in compliance or are being and promptly shall be brought into compliance with all federal, state, or local laws, ordinances, regulations, orders, and directives pertaining to Hazardous Materials on or about the Subject Property or any portion thereof (collectively, "Hazardous Materials Laws"); and (iii) are not being used and have not been used in any manner which has resulted or will result in Hazardous Materials being spilled or disposed on any adjacent or other property. Furthermore, Mortgagor hereby covenants and agrees that, so long as any Secured Obligation is outstanding:

(a) Mortgagor shall not permit the Subject Property or any portion thereof to be a site for the storage, use, generation, manufacture, disposal, or transportation of Hazardous Materials;

(b) Mortgagor shall not permit any Hazardous Materials to be disposed of off the Subject Property except in accordance with Hazardous Materials Laws; and

(c) Mortgagor, at Mortgagor's sole cost and expense, shall keep and maintain the Subject Property and each portion thereof in compliance with, and shall not cause or permit the Subject Property or any portion thereof to be in violation of, any Hazardous Materials Laws.



Mortgagor immediately shall advise Mortgagee in writing of any and all enforcement, cleanup, removal, or other governmental or regulatory actions instituted, completed, or threatened pursuant to any applicable Hazardous Materials Laws, and any and all claims made or threatened by any third party against Mortgagor or the Subject Property relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from any Hazardous Materials.

6.15 Hazardous Materials Indemnity. Mortgagor agrees to indemnify and hold Mortgagee harmless from and against any and all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits, and other proceedings and costs and expenses (including attorney fees), arising directly or indirectly from or out of, or in any way connected with (a) the accuracy of the representations contained in Section 6.14 of this Mortgage, (b) any activities on the Subject Property during Mortgagor's ownership, possession, or control of the Subject Property that directly or indirectly results in the Subject Property or any other property becoming contaminated with Hazardous Materials, (c) the discovery of Hazardous Materials on the Subject Property, (d) the cleanup of Hazardous Materials from the Subject Property, and (e) the discovery of Hazardous Materials on or the cleanup of Hazardous Materials from any adjacent or other property which has become contaminated as a result of any activity on the Subject Property. As between Mortgagor and Mortgagee, Mortgagor acknowledges that it will be solely responsible for all costs and expenses relating to the cleanup of Hazardous Materials from the Subject Property or from any other properties which become contaminated with Hazardous Materials as a result of activities on or the contamination of the Subject Property. Mortgagor's obligations under Section 6.14 and this Section 6.15 of this Mortgage are unconditional. The representations, warranties, and covenants of the Mortgagor set forth in Section 6.14 and this Section 6.15 of this Mortgage (including, without limitation, the indemnity provided for herein) shall continue in effect, shall survive the payment of the Note, and, to the extent permitted by law, shall survive the transfer of the Subject Property pursuant to foreclosure proceedings, by deed in lieu of foreclosure or otherwise. Mortgagor acknowledges and agrees that its covenants and obligations hereunder are separate and distinct from its obligations under the Loan and the Loan Documents.

6.16 Eminent Domain. Should the Subject Property or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner ("Condemnation"), or should Mortgagor receive any notice of other information regarding such proceeding, Mortgagor shall give prompt written notice thereof to Mortgagee. Mortgagee shall be entitled at its option, in its own name, to participate in the commencement and prosecution of any action or proceeding and also shall be entitled to participate in any compromise or settlement in connection with such taking or damage.

ARTICLE VII

RESTRICTIONS ON TRANSFER OR ENCUMBRANCE

7.1 Restrictions on Transfer or Encumbrance of the Subject Property. Neither the Subject Property nor any part thereof or interest therein shall be encumbered, sold (by contract or otherwise), conveyed, or otherwise transferred by Mortgagor without Mortgagee's



prior written consent. Any such encumbrance (unless it is a Permitted Lien), sale, conveyance, or other transfer effected without Mortgagee's prior written consent shall constitute an Event of Default without any grace or cure period. Any transfer in violation of this Section 7.1 shall be void.

7.2 Restrictions on Transfer or Encumbrance of Mortgagor. If in the case any Mortgagor, its successors or assigns is a partnership or corporation and its general partners or shareholders, or any one of them (or any general partner or any constituent partnership of such partnership), should, without the prior written consent of Mortgagee, sell, convey, transfer, option, encumber, mortgage, hypothecate, pledge, sign, dispose of or alienate any interest in the partnership (or any constituent partnership thereof) or more than 25 percent of their shares in the corporation, or enter into any agreement or contract to do any of the foregoing which is not conditioned on compliance with the terms of this Mortgage and all other documents or instruments now or hereafter securing the Note or evidencing or securing the obligation secured by this Mortgage either voluntarily or involuntarily, or by operation of law or if either transaction or occurrence should be consummated or suffered that results in a loss of ultimate ownership or control of Mortgagor, its successors or assigns by the persons who had such control on the date hereof, then in recognition of the reliance by Mortgagee on the ownership and management of the Subject Property by Mortgagor which is a material inducement to Mortgagee to extend credit to Mortgagor and the increased risk to Mortgagee upon the conveyance of the interest or shares, as the case may be, by Mortgagor, or its partners or principal shareholders, Mortgagee, at its sole option, shall have the right to declare all sums secured hereby forthwith due and payable and this option may be exercised at any time after occurrence of any such default; and the acceptance of one or more payments hereunder by Mortgagee thereafter shall not constitute a waiver of Mortgagee's option to demand immediate payment of all sums secured hereby. Mortgagor shall notify Mortgagee promptly in writing, but in any event, not later than 30 days prior to, any transaction or event which may give se to the right of acceleration under this paragraph.

ARTICLE VIII

DEFAULT AND REMEDIES

8.1 Default. "Default" or "Event of Default" means (a) the occurrence of a Default or an Event of Default as defined in the Credit Agreement, (b) the Improvements are destroyed or substantially damaged or the security value thereof otherwise materially reduced, or (c) the Subject Property or any part thereof or any interest therein is transferred voluntarily or involuntarily under operation of law without the prior written consent of Mortgagee.

8.2 Rights and Remedies. At any time after Default and the expiration of any applicable cure periods specified in Section 10.2 of the Credit Agreement, Mortgagee shall have all the following rights and remedies:

- (a) With or without notice, to declare all Secured Obligations immediately due and payable;

(b) With or without notice, and without releasing Mortgagor from any Secured Obligation, and without becoming a mortgagee in possession, to cure any breach or default of Mortgagor under any Loan Document, take the remedial action authorized in Section 6.12 of this Mortgage, and all other actions authorized herein;

(c) To commence and maintain an action or actions to foreclose this instrument as a mortgage or to obtain specific enforcement of the covenants of Mortgagor hereunder, and Mortgagor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subparagraph, Mortgagor waives the defense of laches and any applicable statute of limitations;

(d) To apply to a court of competent jurisdiction for and obtain appointment of a receiver of the Subject Property as a matter of strict right and without regard to (i) the adequacy of the security for the repayment of the Secured Obligations, (ii) the existence of a declaration that the Secured Obligations are immediately due and payable, or (iii) the filing of a notice of default and Mortgagor consents to such appointment;

(e) To enter upon and take possession of the Subject Property or any part thereof for the purpose of collecting rents, to take and possess all documents, books, records, papers, and accounts of Mortgagor relating to the Subject Property or the then owner of the Subject Property; to make, terminate, enforce, or modify leases of the Subject Property upon such terms and conditions as Mortgagee deems proper; to make repairs, alterations, and improvements to the Subject Property necessary, in Mortgagee's judgment, to protect or enhance the security hereof; and

(f) To resort to and realize upon the Subject Property and any other security now or later held by Mortgagee concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken nonjudicial proceedings, or both, and to apply the proceeds received upon the Secured Obligations all in such order and manner as Mortgagee determines in its sole discretion. At any sale of the Subject Property held pursuant to this Section 8.2, Mortgagee may bid, as the equivalent of cash, the amount of all or any of the Secured Obligations, including without limitation, attorney fees.

8.3 Application of Foreclosure Sale Proceeds. After deducting all costs, fees, and expenses of sale, including cost of evidence of title and attorney fees in connection with sale, Mortgagee shall apply all proceeds of any foreclosure sale to payment of all sums expended by Mortgagee under the terms hereof and not then repaid, with accrued interest at the Default Interest Rate; the payment of all other Secured Obligations in such order and amounts as Mortgagee in its sole discretion determines; and the remainder, if any, to the person or persons legally entitled thereto.

8.4 Application of Payments. Except as applicable law or this Mortgage may otherwise provide, all payments received by Mortgagee under the Note or this Mortgage shall be



applied by Mortgagee (after reimbursement of all costs and expenses, together with any interest thereon) in the following order of priority: (a) interest and late charges payable on the Note; (b) interest payable on advances made to protect the security of this Mortgage; (c) principal of the Note as determined by Mortgagee; (d) principal of advances made to protect the security of this Mortgage; and (e) any other sums secured by this Mortgage in such order as Mortgagee, at its option, may determine.

8.5 No Cure or Waiver. Neither Mortgagee's nor any receiver's entry upon and taking possession of all or any part of the Subject Property, nor any collection of rents, issues, profits, insurance proceeds, condemnation proceeds or damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise of any other right or remedy by Mortgagee or any receiver shall cure or waive any breach, Default, or notice of default under this Mortgage, or nullify the effect of any notice of default or notice of sale (unless all Secured Obligations then due have been paid and performed and Mortgagor has cured all other defaults), or impair the status of the security, or prejudice Mortgagee in the exercise of any right or remedy, or be construed as an affirmation by Mortgagee of any tenancy, lease, or option, or a subordination of the lien of this Mortgage.

8.6 Payment of Costs, Expenses, and Attorney Fees. Mortgagor agrees to pay to Mortgagee immediately following demand all costs and expenses incurred by Mortgagee pursuant to subparagraphs (a) through (f) inclusive of Section 8.2 of this Mortgage (including, without limit, court costs and attorney fees) with interest from the date of expenditure until such sums have been paid at the Default Interest Rate.

8.7 Power to File Notices and Cure Defaults. Mortgagor hereby irrevocably appoints Mortgagee and its successors and assigns as its attorney-in-fact, which appointment is coupled with an interest (a) to execute and/or record any notices of completion, cessation of labor, or any other notices that Mortgagee deems appropriate to protect Mortgagee's interest, and (b) upon the occurrence of an event, act, or omission that, with notice or passage of time or both, would constitute a Default, Mortgagee may perform any obligation of Mortgagor hereunder; provided, that (i) Mortgagee as such attorney-in-fact shall only be accountable for such funds as are actually received by Mortgagee, and (ii) Mortgagee shall not be liable to Mortgagor or any other person or entity for any failure to act under this section.

8.8 Waiver of Order of Sale and Marshaling. Mortgagor waives all rights to direct the order in which any of the Subject Property will be sold in the event of any sale under this Mortgage, waives any right to have any of the Subject Property marshaled upon any sale, and agrees that Mortgagee or any court in which foreclosure of this Mortgage is sought shall have the right to sell the Subject Property as a whole or in parcels.

8.9 Expenses During Redemption Period. If this Mortgage is foreclosed as a mortgage and the Subject Property is sold at a foreclosure sale, the purchaser may, during any redemption period allowed, make such repairs or alterations on the Subject Property as may be reasonably necessary for the proper operation, care, preservation, protection, and insuring thereof

Any sums so paid shall be added to and become a part of the amount required to be paid for redemption from such sale, together with interest thereon from the date of expenditure at the Default Interest Rate.

8.10 Foreclosure Subject to Tenancies. Mortgagee shall have the right, at its option, to foreclose this Mortgage subject to the rights of any tenant or tenants of the Subject Property.

8.11 Remedies Cumulative. To the extent permitted by law, every right and remedy provided in this Mortgage is distinct and cumulative to all other rights or remedies under this Mortgage or afforded by law or equity or any other agreement between Mortgagee and Mortgagor, and may be exercised concurrently, independently, or successively, in any order whatsoever. Mortgagee may exercise any of its rights and remedies at its option without regard to the adequacy of its Security.

ARTICLE IX

GENERAL

9.1 Mortgagor's Liability. Mortgagor shall be fully liable to Mortgagee for damages suffered by Mortgagee to the extent provided by law for, but not limited to, the following: (a) as a result of fraud or a material misrepresentation by Mortgagor in connection with the delivery of the Note or the performance of its obligations under the Loan Documents; (b) as a result of the retention of any rental or other income arising with respect to the Subject Property which is collected by Mortgagor after Mortgagee has given notice that Mortgagor is in default under the Note (to the full extent of such rental or other income retained and collected by Mortgagor after the giving of any such notice); (c) for the fair market value of any personal property or Fixtures removed or disposed of by Mortgagor in violation of the terms of this Mortgage as of the time Mortgagee gave notice to Mortgagor of Mortgagor's default under the Loan or any Loan Document; and (d) as a result of the misapplication of any proceeds in violation of the terms of any documents securing the Note, to the full extent of said misapplied proceeds, under any insurance policies or awards resulting from Condemnation or the exercise of the power of eminent domain by reason of damage, loss, or destruction of any portion of the Subject Property.

9.2 Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in, or any other lien on, the Subject Property unless Mortgagee consents in writing to a merger.

9.3 Rules of Construction. When the identity of the parties or other circumstances make it appropriate, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. The term "Subject Property" means all and any part of the Subject Property.



9.4 Successors in Interest. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, successors, and assigns of the parties hereto.

9.5 Exhibits. All exhibits are incorporated into this Mortgage by this reference.

9.6 Addresses, Request for Notice. All notices, consents, approvals, and other communications required or permitted hereunder shall be in writing and shall be sent to the addresses of the parties on the first page hereof.

9.7 Mortgagee's Powers. Without affecting the liability of any person for payment or performance of the Secured Obligations, Mortgagee, at its option, may extend the time for payment of the indebtedness secured hereby or any part thereof, reduce payment thereon, release anyone liable on any of said indebtedness, accept a renewal note or Note therefor, or agree to modify the terms and time of payment of the indebtedness, release the lien of this Mortgage on any part of the Subject Property, take or release other or additional security, release or reconvey or cause to be released or reconveyed all or any part of the Subject Property, consent to the making of any map or plat of the Subject Property, consent to the granting of any easement or the creating, of any restriction on the Subject Property, or join in any subordination or other agreement affecting this Mortgage or the lien or charge hereof Mortgageor shall pay Mortgagee a reasonable service charge, together with such title insurance premiums and attorney fees as may be incurred at Mortgagee's option for any such action if taken at Mortgageor's request.

9.8 Calculation of Interest Rate. All agreements between Mortgageor and Mortgagee are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid to Mortgagee hereunder exceed the highest lawful rate permissible under applicable usury laws. In the event performance of any obligation of Mortgageor hereunder shall require the payment of interest in excess of such highest lawful rate, then such obligation shall, automatically and retroactively to the date hereof, be deemed reduced to the highest lawful rate permissible under applicable usury laws. If Mortgagee ever receives as interest an amount that would exceed such highest lawful rate, the amount of excessive interest shall not be applied to the payment of interest, but shall, automatically and retroactively to the act of payment, be applied to the sums due hereunder, and, if and to the extent such amount of excessive interest exceeds such sums due, be immediately returned by Mortgagee to Mortgageor without interest.

9.9 Severability. If any term of this Mortgage, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Mortgage, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby. Each term of this Mortgage shall be valid and enforceable to the fullest extent permitted by law.

9.10 Nonwaiver. Mortgagee's failure to exercise any right or remedy available to Mortgagee shall in no event be construed as a waiver or release of such rights or remedies or the right to exercise them at a later time. The right, if any, of Mortgageor and all other persons or

entities who are, or may become, liable for all or any part of the indebtedness evidenced by the Note to plead any statute of limitations as a defense to any demand by Mortgagee is expressly waived by each and all of such parties to the fullest extent permitted by law.

9.11 No Amendment or Waiver Except in Writing. The provisions of this Mortgage may not be amended or modified orally in any manner, and may be amended or modified only by a writing duly executed by Mortgagor and Mortgagee. No provision of this Mortgage may be waived by Mortgagee except in writing executed by an authorized representative of Mortgagee that expressly refers to this Mortgage. No such waiver may be implied from any act or conduct of Mortgagee or any omission by Mortgagee to take any action with respect to any provision of this Mortgage. No express written waiver shall affect any other provision of this Mortgage or cover any default or time period or event other than the matter as to which such express written waiver has been given.

9.12 After Acquired Property. All property of every kind acquired by Mortgagor after the date hereof that by the terms hereof, is required to be subjected to the lien of this Mortgage, immediately upon the acquisition thereof by Mortgagor, and without any further Mortgage, conveyance, assignment, or transfer, shall become subject to the lien of this Mortgage. Nevertheless Mortgagor will do, execute, acknowledge, and deliver all and every further act, conveyance, mortgage, and assurance as Mortgagee reasonably shall require for accomplishing the purposes of this Mortgage.

9.13 Definitions. As used herein, the term "Mortgagor" means the each and every Mortgagor herein named, together with any subsequent owner of Mortgagor's interest in the Subject Property or any part thereof or interest therein; and the term "Mortgagee" means the Mortgagee herein named, together with any subsequent owner or holder of the Note or any interest therein, including pledgees, assignees, and participants, the term "Loan Documents" means this Mortgage, all Deeds of Trust, the Note, as well as all amendments, renewals and modifications thereof.

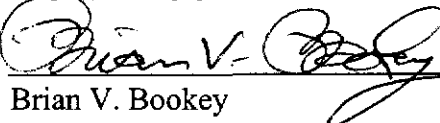
9.14 Attorney Fees. In the event suit or action is instituted to enforce or interpret any provision of this Mortgage, Mortgagor agrees to pay Mortgagee's reasonable expenses in connection therewith, including, without limitation, such amount as the court may adjudge reasonable as attorney fees at trial, on any appeal, and in any bankruptcy case or proceeding. Any such reasonable expenses shall be additional indebtedness of Mortgagor secured by this Mortgage, shall be immediately due and payable, and shall bear interest from the date of disbursement at the Default Interest Rate.

9.15 Interpretation. In the event of any conflict between the terms of this Mortgage and the terms of the Credit Agreement, the terms of the Credit Agreement shall control.



IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the date first above written.

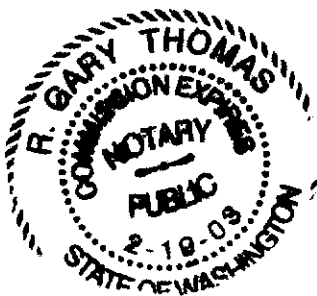
NATIONAL FOOD CORPORATION


By 
Brian V. Bookey
President

STATE OF WASHINGTON)
) SS
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Brian V. Bookey is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of National Food Corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: August 26, 2002.




Notary Public for Washington

R. GARY THOMAS

(Printed or Stamped Name of Notary)

Residing at EDMONDS

My appointment expires: 02-19-03



200208220086

Skagit County Auditor

EXHIBIT A

Legal Description

(Sedro Woolley)

The land referred to in this report/policy is situated in the State of Washington, County of Skagit, and is described as follows:

Parcel "A":

The Southwest 1/4 of the Northwest 1/4 of Section 28, Township 35 North, Range 6 East, W.M.; EXCEPT the North 20 feet thereof conveyed to Skagit County for road purposes by Deed recorded November 16, 1916 in Volume 105 of Deeds, page 187, records of Skagit County, Washington; AND EXCEPT the as built and existing County road running along the North and East lines thereof, commonly known as Warfield Road; AND ALSO EXCEPT that portion thereof lying within the boundaries of the following described tract:

Beginning at the Northwest corner of the Southwest 1/4 of the Northwest 1/4 of Section 28, Township 35 North Range 6 East, W.M.; thence South 20 feet to the true point of beginning; thence East 3 feet; thence South 150 feet; thence West 3 feet; thence North 150 feet to the true point of beginning; EXCEPT that portion, if any, lying within the as built and existing County Road commonly known as the Warfield Road running along the North line thereof.

Parcel "B":

The Northwest 1/4 of the Southwest 1/4 of Section 28, Township 35 North, Range 6 East, W.M.

Parcel "C":

The Southeast 1/4 of the Northeast 1/4, EXCEPT the Northeast 1/4 thereof, Section 29, Township 35 North, Range 6 East, W.M.



200208220086
Skagit County Auditor

EXHIBIT B

Permitted Exceptions

(Sedro Woolley)

NONE



200208220086

Skagit County Auditor

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