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Skagit County Auditor

4/16/2003 Page 1 of 42 11:39AM

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**AMENDED AND RESTATED DEED OF TRUST, ASSIGNMENT OF RENTS AND
LEASES, SECURITY AGREEMENT AND FIXTURE FILING (LEASEHOLD)**

Grantor: SEAWEND, LTD., an Ohio limited liability company d/b/a SEAWEND, LTD L.L.C. in the State of Washington

Grantee #1 (Trustee): Chicago Title Insurance Company

Grantee #2(collectively, Beneficiary): The Huntington National Bank, a national banking association,
Bank of America, N.A., a national banking association, GE Capital, Franchise Finance Corporation. The Huntington National
Bank has been designated as collateral agent for the Beneficiary and may take action on behalf of Beneficiary to enforce the lien
of this Instrument.

UNIT NAME AND NUMBER	COUNTY	ABBREVIATED LEGAL DESCRIPTIONS: COMPLETE DESCRIPTIONS ARE ATTACHED AS EX. "A"	ASSESSOR'S TAX PARCEL ID#	MEMORANDA OF LEASE INFORMATION
SWL 1 15226 Aurora Ave. North Seattle WA 98133	King	SE Quarter Section 18, Township 26 North, Range 4 East, Washington		Dated 12/20/85, Instrument: 85- 12270917
SWL 2 11744 Lake City Way, NE, Seattle, WA. 98125	King	NW 1/2 of Lot 36 + all lots 37,38, 39, 40, 41, 42, Block 12, Homeward Park, Plat Vol 12, Page 37		Date 12/27/84 Instrument 8512270928
SWL 6 31255 State Route 20 Oak Harbor, WA 98277	Island	Lot 1, Plat of Enterprise Addition, Plan Recorded in Volume 12, Page 37		Recorded as Instrument 372246
SWL 8 1830 1st Street Port Angeles, WA 98362	Clallum	Lot 1, MacMillan, Short Plat, Vol 8, Page 55, Block 2,3,4		Dated 12/27/85, Instrument: 573655
SWL 10 2125 Bel-Red Road Redmond, WA 98052	King	NW Quarter of Section 2.6, Township 25, North Range, 5 East WM		Dated 12/27/85 Instrument 8512279877
SWL 11 312 Central Way Kirkland, WA 98033	King	Lots 35-46 Block 95, Kirkland Terrace Plat Vol. 21 Page 42		Dated 4/26/99
SWL 12 11525 NE 124th Street Kirkland, WA 98034	King	Lot 1, Plat 579027, Section 29, Township 26 North Range 5 East		Dated 10/23/91, Instrument: 9110230867
SWL 13 6315 33rd Ave NE Marysville, WA 98271	Snohomish	Section 29, Township 30, Range 5 East		N/A
SWL 18 3404 172nd Street N.E. Arlington, WA 98223	Snohomish	Lot 6, Smokey Point Shopping Center, Vol 1, Pages 292-295		N/A
SWL 19 1560 South Burlington Rd. Burlington. WA 98233	Skagit	Tract C, Plat of K-Mart Commercial Park, Plat Vol 14, Pages 126, 127	P83926	N/A

**AMENDED AND RESTATED
DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES,
SECURITY AGREEMENT AND FIXTURE FILING
(LEASEHOLD)**

THIS AMENDED AND RESTATED DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (LEASEHOLD)(herein "Instrument") is made effective this 28 day of March, 2003, among the Grantor, SEAWEND, LTD., an Ohio limited liability company, d/b/a SEAWEND, LTD L.L.C. in the State of Washington, whose address is 1328 Dublin Road, Suite 300, Columbus, Ohio 43215 (herein "Grantor"), and the Trustee, CHICAGO TITLE INSURANCE COMPANY, whose address is 701 Fifth Avenue, Suite 1800, Seattle Washington, 98104 (herein "Trustee"), and the Beneficiary, collectively, THE HUNTINGTON NATIONAL BANK, a national banking association, whose address is 41 South High Street, Columbus, Ohio 43215 ("Huntington"), BANK OF AMERICA, N.A., a national banking association, and GE CAPITAL FRANCHISE FINANCE CORPORATION. Huntington has been designated as collateral agent for the Beneficiary and may take action on behalf of Beneficiary to enforce the lien of this Instrument;

WHEREAS, Grantor, the Beneficiaries, and the Companies (as hereinafter defined), have collectively entered into that certain Loan Agreement, dated of even date, which Loan Agreement consolidates, amends and restates, in part, that certain Second Amended and Restated Loan Agreement dated February 12, 1998 (as consolidated, amended and restated, the "Loan Agreement"); capitalized terms used herein shall have the meanings ascribed to them in the Loan Agreement, unless otherwise defined herein; and

WHEREAS, Cedar of New England, Ltd, an Ohio limited liability is indebted to Huntington and BOA in the principal amount of \$11,500,000.00 (hereinafter the "Connecticut Loan") as evidenced by a Commercial Loan Note dated April 12, 2002 in that amount (the "Connecticut Note"), incurred for acquisition of Restaurants in the Hartford, Connecticut metropolitan area; and

WHEREAS, the Companies (excluding Grantor) are indebted to Huntington and BOA in the maximum principal amount of \$55,000,000.00 (hereinafter the "Original Revolving Loan") as evidenced by a Revolving Note dated October 30, 1998, in that amount (the "Original Revolving Note")(the Connecticut Note and the Original Revolving Note are hereinafter collectively called the "Original Notes"); and

WHEREAS, Huntington and Cedar are parties to an ISDA Master Agreement dated as of May 1, 1997, and BOA and Cedar are parties to an ISDA Master Agreement dated February 16, 1998 (hereinafter collectively the "Swap Agreements"), providing interest rate protection to Cedar for certain of its obligations to Beneficiary; and

WHEREAS, the obligations of the Companies which are governed by the Loan Agreement and evidenced by the Original Notes and the Swap Agreements are secured, in part, by those certain Mortgages/Deeds of Trust, Assignments of Rents and Security Agreements encumbering certain Wendy's Old-Fashioned Hamburgers Restaurants (hereinafter "Restaurants") located in the Las Vegas, Nevada; San Antonio, Texas; Indianapolis, Indiana; Seattle, Washington; and Hartford, Connecticut metropolitan areas (collectively, the "Original Deed of Trusts"); and

WHEREAS, the Beneficiary and the Companies have agreed to convert the Connecticut Loan and a portion of the Original Revolving Loan to a \$60,000,000.00 term loan, the indebtedness of which is evidenced by that certain Term Note in the original principal amount of \$60,000,000.00, dated of even date herewith, made by the Companies payable to the order of Huntington, BOA and GE and having a maturity date of April 1, 2008 (the "Term Note"); and

WHEREAS, Huntington and BOA have agreed to extend revolving credit in the maximum amount of \$15,000,000.00 to the Companies, the indebtedness of which is evidenced



by that certain Revolving Note in the original principal amount of \$15,000,000.00, dated of even date herewith, made by the Companies payable to the order of Huntington and BOA, and having a maturity date of April 1, 2008 (the "Revolving Note")(the Term Note and the Revolving Note are hereinafter collectively called the "Note"); and

WHEREAS, as a condition to the making of the Note, Beneficiaries required, and the Companies have agreed, that the Original Deed of Trusts be amended and restated to provide that the indebtedness secured thereby is evidenced by the Note (which amends and restates the Original Notes), the SWAP Agreements and the other Indebtedness hereinafter described and defined, so that from and after the date hereof this Instrument, together with the other amended and restated Deed of Trusts and Instruments, shall collectively secure the Indebtedness and the Beneficiary's lien in and to the Collateral encumbered thereby;

NOW THEREFORE, FOR AND IN CONSIDERATION of the foregoing, and in order to secure the Indebtedness, and the payment to the Beneficiary of the principal and interest, and all other sums provided for in the Note and in this Instrument according to their respective terms and conditions, and all future or additional advances as may be made by the Beneficiary to Grantor pursuant to the provisions of this Instrument, and for performance of the agreements, conditions, covenants, provisions and stipulations contained herein and therein, and in certain other agreements and instruments made and given by Grantor to the Beneficiary in connection therewith, and also for and in consideration of the sum of Ten Dollars (\$10.00) paid by the Beneficiary at or before the execution and delivery of these presents, the receipt hereof and legal sufficiency of which are hereby acknowledged, Grantor agrees as follows:

Effective as of even date herewith, the Original Deed of Trust has been and hereby is amended, restated and merged into and with this Instrument so that henceforth this Instrument, together with any and all other documents, instruments, and/or agreements evidencing and/or securing the Indebtedness shall collectively secure the Indebtedness and the Beneficiary lien in and to the Collateral encumbered thereby.

Grantor hereby grants, bargains, assigns and conveys unto the Trustee, on behalf of the Beneficiary **IN TRUST WITH POWER OF SALE** the following:

ALL OF GRANTOR'S rights, title and interest in and to those certain Lease Agreements described on Schedule II, attached hereto and made a part hereof (collectively, the "Lease"), Memoranda of Leases of which have been filed in the applicable towns and/or counties, as the case may be, and the leasehold estates created thereby, together with any and all of Grantor's leasehold rights, title and interest in, to and under the Lease, as tenant, and in and to (i) ALL THOSE TRACTS OR PARCELS OF LAND lying and being in King, Island, Clallum, Snohomish and Skagit Counties, Washington, and being more particularly described on Exhibit "A", attached hereto and incorporated herein by reference (hereinafter collectively called the "Real Property"), and (ii) all modifications, extensions and renewals of the Lease, and all rights to renew or extend the Lease, and (iii) all credits, deposits, options, rights of first refusal, privileges and other rights of Grantor under the Lease; and

TOGETHER WITH all estate, right, title and interest of Grantor in and to the Real Property arising upon any acquisition of fee title to the Real Property, or any part thereof, during the term of the Note; and

TOGETHER with all of Grantor's right, title and interest in all buildings, other improvements, structures and tenements now situated or hereafter erected on the premises described above, and all heretofore or hereafter vacated alleys and streets abutting said premises, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to said premises, and all fixtures, machinery, equipment, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever, now owned or hereafter acquired by Grantor, now existing or hereafter arising and now or hereafter located in, on, or about said premises, or used or intended to be used in connection with said premises, or intended and designated (wherever located) to be incorporated into the structure(s) situated on said premises, including without limitation fixtures and equipment for supplying or distributing heating, cooling, electricity, gas, water, sewage, air



and light, and all fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, 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, unattached rugs, carpet and other attached floor coverings, restaurant equipment, furniture, furnishings, computer equipment, office equipment, pictures, antennas, trees and plants; and Grantor's rights under equipment leases; and all accounts arising from all rents and revenues, whether now due, past due, or to become due by virtue of any lease, license or other agreement for the occupancy or use of all or any part of the premises and improvements; and all permits, licenses and approvals necessary to operate the improvements; and Grantor's rights in the plans and specifications for the improvements; and all of Grantor's accounts receivable, contract rights and all other intangible personal property owned by Grantor and arising from or used in connection with Grantor's business on the Property, including without limitation Grantor's rights in those certain Unit Franchise Agreements entered into with Wendy's International, Inc., an Ohio corporation, for operation of the Restaurants on the real property; and all other property now owned or hereafter acquired and used in or about the above-described premises; all of which, including replacements therefor and proceeds thereof, being hereby deemed a part of the premises encumbered by this Instrument and, together with the Real Property, being hereinafter referred to collectively as the "Property".

TO HAVE AND TO HOLD the same, with all the rights, privileges and appurtenances thereunto belonging, unto the said Trustee, and to its substitutes or successors forever, AS AN ESTATE FOR YEARS; and Grantor does bind itself, its successors and assigns to warrant and forever defend the said Property unto the said Trustee, its substitutes or assigns forever, against the claim, or claims of all persons claiming the same or any part thereof.

Grantor covenants that Grantor is lawfully seized of the leasehold estates hereby conveyed and has the right to mortgage, grant, convey and assign the Property; that the Property is unencumbered except for the lien of this Instrument and the lien of real estate taxes and assessments not yet due; and that Grantor will warrant and defend generally the title to the Property against all claims and demands, whatsoever, except for those items approved by Beneficiary for inclusion in the title insurance policy to be issued to insure the lien of this Instrument.

THIS INSTRUMENT is intended as a deed of trust pursuant to the laws of the State of Washington governing such instruments, and is also a security agreement granting a present and continuing security interest in, and lien on, the portion of the Premises constituting personal property or fixtures, and a financing statement filed as a fixture filing, pursuant to the Uniform Commercial Code of the State of Washington. This Instrument is made and intended to secure payment and performance of: (i) the Loan Agreement, (ii) an indebtedness of Grantor and the Companies to the Beneficiary evidenced by the Note; (iii) any and all renewals, extension or extensions, modification or modifications of the Note, and substitution or substitutions for the Note, either in whole or in part; (iv) all advances, if any, made by the Beneficiary pursuant to the terms of this Instrument or the other Loan Documents (hereinafter defined); (v) all expenses incident to the collection of the Indebtedness secured by this Instrument; (vi) all duties and obligations of Grantor and the Companies under this Instrument or other instruments executed in connection herewith or as part hereof, including but not limited to the Loan Agreement; and (vii) provided the instruments which evidence the same recite that they are secured by this Instrument, all Indebtedness now or hereafter owing by Grantor and the Companies to the Beneficiary, however or whenever created, incurred, arising or evidenced, whether direct or indirect, primary or secondary, joint or several, absolute or contingent, or due or to become due, and whether from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred, and any and all renewal or renewals, extension or extensions, modification or modifications of said indebtedness, and substitution or substitutions for said indebtedness, either in whole or in part, including but not limited to, all obligations incurred by Grantor, the Companies, or any affiliate of Grantor (excluding Cedar Bon Bakeries, Inc.) or the Companies under any agreement between Grantor, the Companies and the Beneficiary, or any of them, or any affiliate of the Beneficiary, now existing or hereafter entered into, which provides for an interest rate, currency, equity, credit or commodity swap, currency, option, any combination of, or option with respect to, any of the foregoing or any similar transactions, for the purpose of hedging Grantor's and the Companies' exposure to fluctuations in



interest rates, exchange rates, currency, stock, portfolio or loan valuations or commodity prices (including any such or similar agreement or transaction entered into by the Beneficiary or any affiliate thereof in connection with any other agreement or transaction between the Beneficiary and Grantor and the Companies or any affiliate thereof); all of which obligations and indebtedness of Grantor and the Companies which this Instrument is given to secure are hereinafter sometimes collectively called the "Indebtedness".



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Skagit County Auditor

Grantor and Beneficiary covenant and agree as follows:

1. **PAYMENT AND PERFORMANCE.** Grantor shall promptly pay when due the principal of and interest on the Indebtedness evidenced by the Note, any prepayment and late charges provided in the Note, and all other sums secured by this Instrument and shall timely perform or cause to be performed the other obligations under the Note and under other instruments given to evidence and/or secure the Indebtedness secured by this Instrument.

2. **FUNDS FOR TAXES, INSURANCE AND OTHER CHARGES.** Upon default in payment of any of the following described items, or upon the occurrence of any other Event of Default (as hereinafter defined), Beneficiary shall have the right, at their option, and if Beneficiary do not elect to accelerate the Indebtedness secured hereby and to pursue their other remedies, to require Grantor to pay to Beneficiary monthly, until the Note is paid in full, a sum (herein "Funds") equal to one-twelfth of (a) the yearly water and sewer rates and taxes and assessments which may be levied on the Property; (b) the yearly premium installments for fire and other hazard insurance, rent loss insurance and such other insurance covering the Property as Beneficiary may require pursuant to paragraph 5 hereof; and (c) such other Funds for other taxes, charges, premiums, assessments and impositions in connection with Grantor or the Property which Beneficiary shall reasonably deem necessary to protect Beneficiary's interests (herein "Other Impositions"); all as reasonably estimated initially and from time to time by Beneficiary.

The Funds shall be held and applied by Beneficiary to pay said rates, taxes, rents, assessments, insurance premiums and Other Impositions so long as no subsequent Event of Default occurs. Beneficiary shall make no charge for so holding and applying the Funds, analyzing said account or for verifying and compiling said assessments and bills, unless Beneficiary are required under applicable law to pay Grantor interest, earnings or profits on the Funds and applicable law permits Beneficiary to make such a charge. Unless applicable law requires interest, earnings or profits to be paid, Beneficiary shall not be required to pay Grantor any interest, earnings or profits on the Funds. Beneficiary shall give to Grantor, without charge, an annual accounting of the Funds in Beneficiary's normal format showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Instrument and shall be subject to the right of set off.

If the amount of the Funds held by Beneficiary at the time of the annual accounting thereof shall exceed the amount deemed necessary by Beneficiary to provide for the payment of water and sewer rates, rents, taxes, assessments, insurance premiums, and Other Impositions, as they fall due, such excess shall be credited to Grantor on the next installment or installments of Funds due. If at any time the amount of the Funds held by Beneficiary shall be less than the amount deemed necessary by Beneficiary to pay water and sewer rates, rents, taxes, assessments, insurance premiums, and Other Impositions, as they fall due, Grantor shall pay to Beneficiary any amount necessary to make up the deficiency immediately after notice from Beneficiary to Grantor requesting payment thereof.

Upon the subsequent occurrence of an Event of Default, Beneficiary may apply, in any amount and in any order as Beneficiary shall determine in Beneficiary's sole discretion, any Funds held by Beneficiary at the time of application (a) to pay rates, rents, taxes, assessments, insurance premiums and Other Impositions which are now or will hereafter become due, or (b) as a credit against sums secured by this Instrument. Upon payment in full of all sums secured by this Instrument, Beneficiary shall promptly refund to Grantor any Funds held by Beneficiary.

3. **APPLICATION OF PAYMENTS.** Unless applicable law provides otherwise, all payments received by Beneficiary from Grantor under the Note or this Instrument shall be applied by Beneficiary in the following order of priority: (a) amounts payable to Grantor under paragraph 2 hereof; (b) interest payable on the Note; (c) principal of the Note; (d) interest payable on advances made pursuant to paragraph 8 hereof; (e) principal of advances made pursuant to paragraph 8 hereof; and (f) any other sums secured by this Instrument in such order as Beneficiary, at Beneficiary's option, may determine; provided, however, that Beneficiary may,



at Beneficiary's option, apply any sums payable pursuant to paragraph 8 hereof prior to interest and principal, but such application shall not otherwise affect the order of priority of application specified in this paragraph 3.

4. **CHARGES; LIENS.** Grantor shall pay all water and sewer rates, rents, taxes, assessments, premiums, and Other Impositions attributable to the Property and, upon Beneficiary's written request, shall promptly furnish to Beneficiary receipts evidencing such payments; provided that Grantor may contest taxes and assessments in good faith and by appropriate proceedings and shall establish and maintain an adequate book reserve with respect thereto; further provided that Grantor's title to and right to use the individual property for which taxes and/or assessments are being contested are not adversely affected thereby; further provided that, if the amount of taxes and assessments being contested exceeds the threshold of materiality established by Grantor's independent public accountants for the purposes of their audit of the then-current year, then the appropriateness of such proceedings shall be supported by the opinion of the independent counsel responsible for such proceedings, and the adequacy of such reserves shall be supported by the opinion of the independent accountants; further provided that Beneficiary shall retain the right to protect the security of this Instrument pursuant to paragraph 8 hereof.

Grantor shall promptly discharge any lien which has, or may have, priority over or equality with, the lien of this Instrument. Grantor shall pay, when due, the claims of all persons supplying labor or materials to or in connection with the Property; provided that Grantor may contest such claims in good faith by appropriate proceedings if the enforcement of any lien which has arisen or may arise with respect to such claim is effectively stayed; further provided that all such claims against Borrowers may not at any time exceed the aggregate amount permitted under the Loan Agreement; further provided that Beneficiary shall retain the right to protect the security of this Instrument pursuant to paragraph 8 hereof. Without Beneficiary's prior written permission, Grantor shall not allow any lien, encumbrance, or other interest in the Property inferior to the lien of this Instrument to be perfected against the Property.

5. **HAZARD INSURANCE.** Grantor shall keep the improvements now existing or hereafter erected on the Property insured by carriers at all times satisfactory to Beneficiary and the lessor under any lease against loss by fire, hazards included within the term "extended coverage", rent loss and such other hazards, casualties, liabilities and contingencies as Beneficiary and the lessor under any lease shall require and in such amounts and for such periods as Beneficiary shall require.

All insurance policies and renewals thereof shall be in a form acceptable to Beneficiary and shall include a standard mortgagee clause in favor of and in form acceptable to Beneficiary. Grantor shall promptly furnish to Beneficiary all renewal notices and all receipts of paid premiums. At least 10 days' prior to the expiration date of a policy, Grantor shall deliver to Beneficiary a renewal or substitute certificate in form satisfactory to Beneficiary.

In the event of loss, Grantor shall give immediate written notice to the insurance carrier and to Beneficiary and shall promptly make proof of loss and take such other actions as are necessary to prosecute its insurance claim. Grantor hereby authorizes and empowers Beneficiary, as attorney-in-fact for Grantor, to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Beneficiary's expenses incurred in the collection of such proceeds; provided, however, that Beneficiary agree to provide Grantor with 3 business days' written notice before taking any such action; further provided that nothing contained in this paragraph shall require Beneficiary to incur any expense or take any action hereunder. Grantor further authorizes Beneficiary: (a) to hold the balance of such proceeds to be used to reimburse Grantor for the cost of restoration of the Property or (b) to apply the balance of such proceeds to the payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in paragraph 3 hereof, with any remaining balance to be paid to the person or persons legally entitled thereto, subject to the rights of the lessor under any lease; provided, however, if no Event of Default exists, and if insurance proceeds are sufficient to pay for estimated costs of restoration or Grantor deposits any



additional funds required in a construction account with Beneficiary. And, if the proceeds are made available by the lessor under the Lease, then Beneficiary will hold the insurance proceeds in a construction fund, at Grantor's request, and make same available to Grantor to pay for costs of restoration, with any remaining balance to be applied in reduction of the indebtedness secured hereby and, after payment of all indebtedness secured hereby, to be paid to the person or persons legally entitled thereto.

If the insurance proceeds are held by Beneficiary to reimburse Grantor for the cost of restoration of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as Beneficiary may approve in writing. Beneficiary may, at Beneficiary's option, condition disbursement of said proceeds on Beneficiary's approval of such plans and specifications of an architect satisfactory to Beneficiary, 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 Beneficiary may reasonably require.

If the insurance proceeds are applied to the payment of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the installments due on the Note or the installments referred to in paragraph 2 hereof or change the amounts of such installments.

If the Property is sold pursuant to paragraph 25 hereof or if Beneficiary acquire title to the Property, Beneficiary shall have all of the right, title and interest of Grantor in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

6. PRESERVATION AND MAINTENANCE OF PROPERTY; LEASEHOLD DEED OF TRUST. Grantor (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 Beneficiary may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are sufficient to cover in whole or in part the costs of such restoration or repair, (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon in good repair 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 operate and maintain the Property as Wendy's Old-Fashioned Hamburgers restaurants and maintain the franchise agreements therefor in good standing, (g) shall maintain any and all leases in full force and effect and unmodified, and (h) shall give notice in writing to Beneficiary of and, unless otherwise directed in writing by Beneficiary, appear in and defend any action or proceeding purporting to affect the Property, the security of this Instrument or the rights or powers of Beneficiary. Except as permitted by the Loan Agreement, neither Grantor nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter 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.

Grantor represents and warrants to Beneficiary that the Lease has not been further amended, that Grantor has not received any notice of default thereunder nor does Grantor have knowledge of the occurrence of any event or the existence of any circumstance which, with notice or passage of time or both, would constitute a default by Grantor under the Lease, and the Lease continues in full force and effect in accordance with its terms. Grantor (a) shall comply with the provisions of the Lease, (b) shall give immediate written notice to Beneficiary of any default by lessor under the Lease or of any notice received by Grantor from Lessor of any default under the Lease by Grantor, (c) shall exercise any option to renew or extend the Lease and give written confirmation thereof to Beneficiary within 30 days after such option becomes exercisable, (d) shall give immediate written notice to Beneficiary of the commencement of any remedial proceedings under the Lease by any party thereto and, if required by Beneficiary, shall permit Beneficiary as Grantor's attorney-in-fact to control and act for Grantor in any such



remedial proceedings and (e) shall within 30 days after request by Beneficiary obtain from the lessor under the Lease and deliver to Beneficiary the lessor's estoppel certificate required thereunder, if any. Subject to the terms and conditions of the Lease and/or of any separate leasehold financing agreement or consent executed by the lessor, Grantor hereby expressly transfers and assigns to the Beneficiary the benefit of all covenants contained in the Lease, whether or not such covenants run with the land, but the Beneficiary shall have no liability with respect to such covenants nor any other covenants contained in the Lease. Grantor shall not surrender the leasehold estate and interests herein conveyed nor terminate or cancel the Lease creating said estate and interests, and Grantor shall not, without express written consent of Beneficiary, alter or amend said Lease. Grantor covenants and agrees that there shall not be a merger of the Lease, or of the leasehold estate created thereby, with the fee estate or with any greater leasehold estate covered by the Lease by reason of said leasehold estate or the fee estate or any greater leasehold estate, or any part of any such estate, coming into common ownership, unless Beneficiary shall consent in writing to such merger; and if Grantor shall acquire such fee estate or a greater leasehold estate, then this Instrument shall simultaneously and without further action be spread so as to become a lien on such fee estate or greater leasehold estate.

7. **USE OF PROPERTY.** Unless required by applicable law or unless Beneficiary have otherwise agreed in writing, Grantor 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. Grantor shall not initiate or acquiesce in a change in the zoning classification of the Property without Beneficiary's prior written consent. **At no time shall the Property, or any part thereof, be used principally or at all for agricultural purposes.**

8. **PROTECTION OF BENEFICIARY'S SECURITY.** If any Event of Default occurs or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Beneficiary therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Beneficiary, at Beneficiary's option, may make such appearances, disburse such sums and take such action as Beneficiary deem necessary, in their sole discretion, to protect Beneficiary's interest, including, but not limited to, (a) disbursement of attorney's fees, (b) entry upon the Property to make repairs, (c) procurement of satisfactory insurance as provided in paragraph 5 hereof, and (d) exercising of any right to renew the term of any lease or curing of any defaults under any lease. The foregoing notwithstanding, Beneficiary shall have the right to obtain insurance during the notice/cure period if the Property is or may become uninsured during the notice/cure period.

Any amounts disbursed by Beneficiary pursuant to this paragraph, with interest thereon, shall become additional Indebtedness of Grantor secured by this Instrument. Unless Grantor and Beneficiary agree to other terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the default rate stated in the Note unless collection from Grantor of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Grantor under applicable law. Grantor hereby covenants and agrees that Beneficiary shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this paragraph shall require Beneficiary to incur any expense or take any action hereunder.

9. **INSPECTION.** Beneficiary may make or cause to be made reasonable entries upon and inspections of the Property upon 10 days' prior written notice to Grantor.

10. **BOOKS AND RECORDS.** Grantor shall keep and maintain at all times complete and accurate books of accounts and records in accordance with the terms and conditions of the Loan Agreement 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. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Beneficiary upon 10 days' prior written notice. Grantor shall furnish to Beneficiary the financial statements required by the terms of the Loan Agreement.

11. **CONDEMNATION.** Grantor shall promptly notify Beneficiary of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Grantor shall appear in and prosecute any such action or proceedings unless otherwise directed by Beneficiary in writing. Grantor authorizes Beneficiary, at Beneficiary's option, as attorney-in-fact for Grantor to commence, appear in and prosecute, in Beneficiary's or Grantor's name any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking; provided, however, that Beneficiary agree to provide Grantor with 3 business days' written notice before taking any such action; further provided that nothing contained in this paragraph shall require Beneficiary to incur any expense or take any action hereunder. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Beneficiary, subject to the rights of the lessor under the Lease.

Grantor authorizes Beneficiary to apply such awards, payments, proceeds or damages, after the deduction of Beneficiary's expenses incurred in the collection of such amounts, at Beneficiary's option, to restoration of the Property or to payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in paragraph 3 hereof, with the balance, if any, to the person or persons legally entitled thereto, subject to the rights of the lessor under the Lease. Unless Grantor and Beneficiary otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due dates of the installments due on the Note or the monthly installments referred to in paragraph 2 hereof or change the amount of such installments. Grantor agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Beneficiary may require.

12. **GRANTOR AND LIEN NOT RELEASED.** From time to time, Beneficiary may, at Beneficiary's option, without giving notice to or obtaining the consent of Grantor (except as provided in this paragraph), its successors or assigns or of any junior lienholder or guarantor, without liability on Beneficiary's part and notwithstanding Grantor's breach of any covenant or agreement of Grantor in this Instrument or existence of any other Event of Default, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, release from the lien of this Instrument any part of the Property or take or release other or additional security or reconvey any part of the Property or consent to any map or plan of the Property or consent to the granting of any easement, join in any extension or subordination agreement or agree in writing with Grantor or with the Companies to modify the rate of interest on the Note or to change the amount of the installments payable thereunder. Any actions taken by Beneficiary pursuant to the terms of this paragraph shall not affect the obligation of Grantor and its successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Grantor contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Grantor shall pay Beneficiary a reasonable service charge, together with such title insurance premiums and attorney's fees as may be incurred at Beneficiary's option for any such action if taken at Grantor's request.

13. **FORBEARANCE BY BENEFICIARY NOT A WAIVER.** Any forbearance by Beneficiary in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Beneficiary of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Beneficiary'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 Beneficiary shall not be a waiver of Beneficiary's right to accelerate the maturity of the indebtedness secured by this Instrument. Beneficiary's receipt of any awards, proceeds or damages under paragraphs 5 or 11 hereof shall not operate to cure or waive Borrowers' default in payment of sums secured by this Instrument.



14. **ESTOPPEL CERTIFICATE.** Grantor shall, within 10 days of a written request from Beneficiary, furnish Beneficiary 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.

15. **UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.** In addition to being an Amended and Restated Deed of Trust and Assignment of Rents, this Instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Grantor hereby grants the Trustee, on behalf of the Beneficiary, a security interest in said items. **THIS INSTRUMENT CONSTITUTES A FIXTURE FILING.** Grantor agrees that Beneficiary may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Grantor agrees to execute and deliver to Beneficiary, upon its request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Beneficiary may require to perfect a security interest with respect to said items on behalf of the Beneficiary. Grantor shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Beneficiary may reasonably require. Without the prior written consent of Beneficiary, Grantor shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto, except for "purchase money" security interests permitted by the Loan Agreement. Upon occurrence of an Event of Default, including the covenants to pay when due all sums secured by this Instrument, the Beneficiary shall have the remedies of a secured party under the Uniform Commercial Code and, at its option, may also invoke the remedies provided in paragraph 25 of this Instrument as to such items. In exercising any of said remedies, Beneficiary, as agent, 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 the Beneficiary's remedies under the Uniform Commercial Code or of the remedies provided in paragraph 25 of this Instrument.

16. **LEASES OF THE PROPERTY.** Grantor shall comply with and observe Grantor's obligations as landlord under all leases of the Property or any part thereof. Grantor shall furnish Beneficiary with executed copies of all leases now existing or hereafter made of all or any part of the Property, and all leases now or hereafter entered into will be in form and substance subject to the approval of Beneficiary. The foregoing notwithstanding, Grantor has covenanted to operate the Property, and agrees not to enter into any lease or any management agreement with respect to any portion of the Property without the prior written consent of Beneficiary, which may be given or withheld in Beneficiary's sole and absolute discretion. As used in this paragraph 16, "lease" means a "lease" or a "sublease."

Grantor does hereby assign to Beneficiary, as additional security, all leases now existing or hereafter made of all or any part of the Property and, to the extent permitted by applicable law, all security deposits made by tenants in connection with such leases of the Property. Upon Grantor's default, Beneficiary, as agent, at its option, shall have all of the rights and powers possessed by Grantor prior to such assignment.

17. **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.

18. **ACCELERATION IN CASE OF GRANTOR'S INSOLVENCY.** If Grantor shall voluntarily file a petition under the Federal Bankruptcy Code, as such Code may from time to time be amended, or under any similar or successor Federal Statute relating to bankruptcy,



insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in an involuntary proceeding admitting insolvency or failure to pay debts as they come due, or if any Grantor shall fail within 60 days to obtain a vacation, stay or dismissal of involuntary proceedings brought for the reorganization, dissolution or liquidation of Grantor, or if an order for relief under the Federal Bankruptcy Code shall be entered against Grantor, or if a trustee, receiver or custodian shall be appointed for Grantor or its property, or if any portion of the Property shall become subject to the jurisdiction of a Federal bankruptcy court or similar state court, or if any Grantor shall make an assignment for the benefit of its creditors, or if there is an attachment, execution or other judicial seizure of any portion of any Grantor's assets and such seizure is not discharged within 60 days, then Beneficiary may, at Beneficiary's option, declare all of the sums secured by this Instrument to be immediately due and payable without prior notice to Grantor, and Beneficiary may invoke any remedies permitted by paragraph 25 of this Instrument. Any attorney's fees and other expenses incurred by Beneficiary in connection with Grantor's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Grantor secured by this Instrument pursuant to paragraph 8 hereof.

19. TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN GRANTOR. On sale, encumbrance, or transfer of (a) all or any part of the Property, or any interest therein, or (b) beneficial interests in Grantor, Beneficiary may, at Beneficiary's option, declare all of the sums secured by this Instrument to be immediately due and payable, and Beneficiary may invoke any remedies permitted by paragraph 25 of this Instrument. This option shall not apply to: (i) sales or transfers of fixtures or any personal property pursuant to paragraph 6 hereof; or (ii) those transfers of beneficial interests in Grantor permitted in the Loan Agreement; or (iii) those dispositions of personal property permitted in the Loan Agreement.

20. NOTICE. Except for any notice required under applicable law to be given in another manner, and notices given as provided in the Loan Agreement: (a) any notice to Grantor provided for in this Instrument or in the Note shall be given by mailing such notice by certified mail, return receipt requested, addressed to Grantor at its address as shown on Beneficiary's records or at such other address as Grantor may designate by notice to Beneficiary as provided herein, and (b) any notice to Beneficiary shall be given by certified mail, return receipt requested, to Beneficiary's principal places of business at the addresses set forth in the Note or to such other addresses as the Beneficiary may designate by notice to Grantor as provided herein. Any notice provided for in this Instrument or in the Note shall be deemed to have been given to Grantor or Beneficiary when given in the manner designated herein.

21. SUCCESSORS AND ASSIGNS BOUND; AGENTS; JOINT AND SEVERAL OBLIGATIONS; CAPTIONS. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Beneficiary and Grantor, subject to the provisions of paragraph 19 hereof. All covenants of Grantor in the Note, the Loan Agreement, and this Instrument shall be joint and several with other obligors. In exercising any rights hereunder or taking any actions provided for herein, Beneficiary may act through their employees, agents or independent contractors as authorized by Beneficiary. The captions and headings of the paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

22. GOVERNING LAW; SEVERABILITY. The remedial provisions and real property covenants of this Instrument shall be governed by the law of Washington, but the Note, the Loan Agreement, and the other provisions of this Instrument and the loan transactions secured by this Instrument are governed by Ohio law. In the event that any provision of this Instrument or the Note or the Loan Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Instrument or the Note or the Loan Agreement which can be given effect without the conflicting provisions, and to this end the provisions of such documents are declared to be severable. In the event that any applicable law limiting the amount of interest or other charge permitted to be collected from Grantor is interpreted so that any charge provided for in this Instrument or in the Note or in the Loan Agreement, whether considered separately or together with other charges levied in connection with this Instrument and the Note, violates such law, and Grantor is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Beneficiary



in excess of the amounts payable to Beneficiary pursuant to such charges as reduced shall be applied by Beneficiary to reduce the principal of the indebtedness evidenced by the Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Grantor 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 uniformly allocated and spread over the stated terms of the Note.

23. **WAIVER OF STATUTE OF LIMITATIONS.** To the extent permitted by law, Grantor hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

24. **WAIVER OF MARSHALLING; WAIVER OF VALUATION AND APPRAISEMENT.** Notwithstanding the existence of any other security interests in the Property held by Beneficiary or by any other party, Beneficiary shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Beneficiary 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 herein. Grantor, any party who consents to this Instrument, and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein, to the extent permitted by law.

Grantor hereby waives the benefit of all valuation and appraisal laws.

25. **DEFAULT; ACCELERATION; REMEDIES.** An "Event of Default" shall have the meaning ascribed to it in the Loan Agreement and the Note which includes, without limitation, the following events: should Grantor (i) cancel, modify, alter or amend the Lease without the prior written consent of Beneficiary, which consent Beneficiary may withhold or condition in its reasonable discretion, or (ii) fail to maintain the Lease in full force and effect.

Upon the occurrence of an Event of Default, Beneficiary, at Beneficiary's option, may declare all of the sums secured by this instrument to be immediately due and payable in full, without notice or demand, and may exercise any and all remedies permitted by applicable law including, without limitation, the following: (i) foreclose this Deed of Trust judicially, in the same manner as a mortgage; (ii) cause the Trustee to exercise its power of sale in accordance with the Deed of Trust Act of the State of Washington, RCW Chapter 61.24, as now existing or hereafter amended; or (iii) sue on the Note or Loan Agreement in accordance with applicable law.

The procedure for exercise of the Trustee's power of sale shall be as follows:

Upon written request therefore by Beneficiary specifying the nature of the default, or the nature of the several defaults, and the amount or amounts due and owing, Trustee shall execute a written notice of breach and of its election to cause the property to be sold to satisfy the obligations secured hereby, and shall cause such notice to be recorded and otherwise given according to law.

Notice of sale having been given is then required by law and not less than the time then required by law having elapsed after recordation of such notice of breach, Trustee, without demand on Grantor, shall sell the Property at the time and place of sale specified in the notice, as provided by statute, either as a whole or in separate parcels and in such order as it may determine, at public auction to the highest and best bidder for cash and lawful money of the United States, payable at time of sale. Grantor agrees that such a sale (or sheriff's sale pursuant to judicial foreclosure) of all the Property as real estate constitutes a commercially reasonable disposition thereof, but that with respect to all or any part of the Property which may be personal property Trustee shall have and exercise, at Beneficiary's sole election, all the rights and



remedies of a secured party under the UCC. Whenever notice is permitted or required hereunder or under the UCC, ten (10) days shall be deemed reasonable. Trustee may postpone sale of all or any portion of the Property, and from time to time thereafter may postpone such sale, as provided by statute. Trustee shall deliver to the purchaser its deed and bill of sale conveying the property so sold, but without any covenant or warranty, express or implied. The recital and such deed and bill of sale of any matters or facts shall be conclusion proof of the truthfulness thereof. Any person other than Trustee, including Grantor or Beneficiary, may purchase at such sale.

After deducting all costs, fees and expenses of trustee and this trust, including the cost of evidence of title search and reasonable counsel fees in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof not then repaid, with accrued interest with the default rate of interest specified in the Loan Agreement; all other sums then secured hereby; and the remainder, if any, to the Clerk of the Superior Court of the county in which the sale took place, as provided in RCW 61.24.080.

26. ASSIGNMENT OF RENTS; APPOINTMENT OF RECEIVER; LENDER IN POSSESSION. As part of the consideration for the indebtedness evidenced by the Note, Grantor hereby absolutely and unconditionally assigns and transfers to Beneficiary, all the rents and revenues of the Property, including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable. Grantor hereby authorizes Beneficiary or its agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Beneficiary or its agents; provided, however, that prior to written notice given by Beneficiary to Grantor of the existence of an Event of Default, Grantor shall collect and receive all rents and revenues of the Property as trustee for the benefit of Beneficiary and Grantor, to apply the rents and revenues so collected to the sums secured by this Instrument in the order provided in paragraph 3 hereof with the balance, so long as no such Event of Default has occurred, to the account of Grantor, it being intended by Grantor and Beneficiary that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Beneficiary to Grantor of the existence of an Event of Default, and without the necessity of Beneficiary entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Beneficiary shall immediately be entitled to possession of all rents and revenues of the Property as specified in this paragraph as the same become due and payable, including but not limited to rents then due and unpaid, and all such rents shall immediately upon delivery of such notice be held by Grantor as trustee for the benefit of Beneficiary only; provided, however, that the written notice by Beneficiary to Grantor of the Event of Default shall contain a statement that Beneficiary exercises its rights to such rents.

Grantor hereby covenants that Grantor has not executed any prior assignment of said rents, that Grantor has not performed, and will not perform, any acts or has not executed, and will not execute, any instrument which would prevent Beneficiary from exercising its rights under this paragraph, 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. Grantor covenants that Grantor will not hereafter collect or accept payment of any rents of the Property more than one month prior to the due dates of such rents. Grantor further covenants that Grantor will execute and deliver to Beneficiary such further assignments of rents and revenues of the Property as Beneficiary may from time to time request.

Upon the occurrence of an Event of Default, Beneficiary may, in person, by agent or by a court-appointed receiver, regardless of the adequacy of Beneficiary's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Instrument. In the event Beneficiary elects to seek the appointment of a receiver for the Property, Grantor hereby expressly consents to the appointment



of such receiver. Beneficiary or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Beneficiary to Grantor of existence of an Event of Default shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Grantor as lessor or landlord of the Property and then to the sums secured by this Instrument. Beneficiary 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 these rents actually received. Beneficiary shall not be liable to Grantor, anyone claiming under or through Grantor or anyone having an interest in the Property by reason of anything done or left undone by Beneficiary under this paragraph.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Beneficiary for such purposes shall become indebtedness of Grantor to Beneficiary secured by this Instrument pursuant to paragraph 8 hereof. Unless Beneficiary and Grantor agree in writing to other terms of payment, such amounts shall be payable upon notice from Beneficiary to Grantor requesting payment thereof and shall bear interest from the date of disbursement at the default rate stated in the Note.

Any entering upon and taking and maintaining of control of the Property by Beneficiary or the receiver and any application of rents as provided herein shall not cure or waive any Event of Default or invalidate any other right or remedy of Beneficiary under applicable law or as provided herein. This assignment of rents shall terminate at such time as this Instrument ceases to secure Indebtedness held by Beneficiary.

27. **[INTENTIONALLY DELETED].**

28. **PRIORITY OF LIEN.** This Instrument shall remain in full force and effect notwithstanding any extension or extensions of the maturity date or other modification of the obligations which this Instrument secures and notwithstanding the fact that such extensions and modifications may be evidenced by a note or notes signed and dated after the date of this Instrument.

29. **RECONVEYANCE.** Upon receipt of a written request from Beneficiary reciting that all sums secured hereby have been paid and upon surrender of this Instrument and the Loan Documents to Trustee for cancellation and retention and upon the payment of the Trustee's fees by Grantor, the Trustee shall reconvey without warranty the Property then held hereunder. The recitals in such conveyance of any matters of fact shall be conclusive proof of the truth thereof. The grantee in such reconveyance may be described in general terms as "The person or persons legally entitled thereto," and Trustee is authorized to retain this Instrument and the Loan Documents.

30. **SUBSTITUTE TRUSTEE.** Beneficiary or assigns may, at any time, by instrument in writing, appoint a successor or successors to the Trustee named herein or acting hereunder, which instrument, executed and acknowledged by Beneficiary and recorded in the Office of the County Recorder of the County or Counties wherein the Property is situated, shall be conclusive proof of the proper substitution of such successor or Trustee, who shall have all the estate, powers, duties and trusts in the Property vested in or conferred on the original Trustee. If there be more than one Trustee, either may act alone and execute the Trusts upon the request of Beneficiary and his acts shall be deemed to be the acts of all Trustees, and the recital in any conveyance executed by such sole Trustee of such requests shall be conclusive evidence thereof, and of the authority of such sole Trustee to act. Beneficiary agrees to provide prompt written notice to Grantor of the name and address of any substitute trustee.



31. **TRUSTEE'S ACCEPTANCE.** Trustee accepts these trusts when this Instrument, executed and acknowledged by Grantor, is made a public record as provided by law.

32. **EXCLUSION OF ENVIRONMENTAL INDEMNITY.** Neither this Instrument nor any of the other Loan Documents secures, nor shall be deemed to secure, that certain Environmental Indemnity Agreement given by Grantor to Beneficiary of even date herewith, nor any other environmental indemnification provisions set forth elsewhere in any of the Loan Documents.

33. **LIMITATION.** Notwithstanding the foregoing, the grant and assignment made by Grantor to the Beneficiary of the rents and leases provided herein, is made subject to: those certain Lease Agreements by and between Grantor, as tenant/subtenant, and the "Landlord(s)", defined therein relating to the Property, as the same have been amended and modified by those certain Leasehold Financing Agreements, Lessor's Consents, Estoppels, and Waivers, Lessor's Estoppels, and similar documents, executed and delivered by the Landlord(s) to and in favor of the Beneficiary.



200304160107

Skagit County Auditor

IN WITNESS WHEREOF, Grantor, by its duly authorized officer, has executed and delivered this Instrument. **PLEASE BE ADVISED THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

SEAWEND, LTD., d/b/a SEAWEND, LTD, LLC

By: J. David Karam, II
J. David Karam, II,
President

STATE OF OHIO,
COUNTY OF FRANKLIN, SS:

On this 28 day of March, 2002, before me, a Notary Public in and for said County and State, personally appeared J. David Karam, II, with whom I am personally acquainted, known to me to be the person who as President of SEAWEND, Ltd., the limited liability company which executed the foregoing instrument, signed the same, and acknowledged to me that he did so sign said instrument in the name and upon behalf of said limited liability company as such officer and by authority of a resolution of its management board; and that the same is his free act and deed as such officer and the free and corporate act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Polly Rickard Patel
Notary Public

My Commission Expires: _____

County of Residence: _____

THIS INSTRUMENT PREPARED BY:

Catherine P. Powell, Esquire
Tatum Levine & Powell, LLP
1199 Oxford Road, N.E.
Atlanta, Georgia 30306



POLLY RICKARD PATEL
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.



EXHIBIT "A"
DESCRIPTION OF PROPERTY

UNOFFICIAL DOCUMENT



200304160107

Skagit County Auditor

SWL 1
15226 Aurora Ave. North
Seattle WA 98133
King County
L & B Lease – Lessor: SeaWend, Ltd.

Record Owner: Panos Properties, L.L.C. – I
6850 East Green Lake Way North #201
Seattle, Washington 98115

EXHIBIT A
LEGAL DESCRIPTION

Property know as 15226 Aurora Ave. North, Seattle, King County, Washington



200304160107
Skagit County Auditor

EXHIBIT A

SWL2

15226 AURORA AVE., N.
SEATTLE, WA
STORE #1528

That certain building identified as "Wendy's Old Fashioned Hamburgers Store" which was completed on or about May 1, 1978, located on the following described property:

PARCEL A

That portion of the Northwest quarter of the Southeast quarter of Section 18, Township 28 North, Range 4 East, W.M., in King County, Washington, described as follows:

BEGINNING at a point on the East line of Primary State Highway No. 1, as established by Judgment on Verdicts rendered on October 27, 1968 under King County Superior Court Cause No. 83846, distant 1,325.3 feet North and 48 feet East of the South quarter corner of said sections;

thence East 376 feet;

thence North 83.6 feet;

thence East to the West line of East 836 feet of said subdivision;

thence North along the West line to the South line of the North 336 feet of said subdivisions;

thence West along said South line to the said East line of Primary State Highway No. 1;

thence south along said East line to the POINT OF BEGINNING.

PARCEL B

That portion of the South half of the Northwest quarter of the Southeast quarter of Section 18, Township 28 North, Range 4 East, W.M. in King County, Washington, described as follows:

BEGINNING at a point on the East line of North Trunk Highway "Aurora Avenue" 1,785.3 feet North and 48 feet East of the South quarter corner of said sections;

thence North, along said Highway, 148 feet;

thence East 376 feet;

thence South 148 feet;

thence West 376 feet to the POINT OF BEGINNING;

EXCEPT that portion lying within North 152nd Street, as presently established;

AND EXCEPT that portion described as follows:

BEGINNING at a point which is 1,798.3 feet North and 377.84 feet East of the South quarter corner of said Sections;

thence East 43.86 feet;

thence North 122.48 feet;

thence West 37.38 feet;

thence in a Southwesterly direction a distance of 122.48 feet to the POINT OF BEGINNING.

Together with all appurtenances and existing or future improvements and all equipment, furnishings and fixtures owned by Mortgagor located on the Real Property, and all accretions, parts or additions to, all replacement of and all substitutions for any of such Property, and together with all proceeds therefrom, specifically excluding, however, all cash, inventories and supplies owned by Mortgagor.



200304160107
Skagit County Auditor

EXHIBIT A

SWLZ

15226 AURORA AVE., N.
SEATTLE, WA
STORE #1528

That certain building identified as "Wendy's Old Fashioned Hamburgers Store" which was completed on or about May 1, 1978, located on the following described property:

PARCEL A

That portion of the Northwest quarter of the Southeast quarter of Section 18, Township 28 North, Range 4 East, W.M., in King County, Washington, described as follows:

BEGINNING at a point on the East line of Primary State Highway No. 1, as established by Judgment on Verdicts rendered on October 22, 1968 under King County Superior Court Cause No. 62848, distant 1,929.3 feet North and 48 feet East of the South quarter corner of said section;
thence East 378 feet;
thence North 83.8 feet;
thence East to the West line of East 838 feet of said subdivision;
thence North along the West line to the South line of the North 330 feet of said subdivisions;
thence West along said South line to the said East line of Primary State Highway No. 1;
thence south along said East line to the POINT OF BEGINNING.

PARCEL B

That portion of the South half of the Northwest quarter of the Southeast quarter of Section 18, Township 28 North, Range 4 East, W.M. in King County, Washington, described as follows:

BEGINNING at a point on the East line of North Trunk Highway "Aurora Avenue" 1,785.3 feet North and 48 feet East of the South quarter corner of said section;
thence North, along said Highway, 148 feet;
thence East 378 feet;
thence South 148 feet;
thence West 378 feet to the POINT OF BEGINNING;

EXCEPT that portion lying within North 152nd Street, as presently established;

AND EXCEPT that portion described as follows:

BEGINNING at a point which is 1,798.3 feet North and 377.94 feet East of the South quarter corner of said Section;
thence East 43.86 feet;
thence North 122.48 feet;
thence West 37.38 feet;
thence in a Southwesterly direction a distance of 122.48 feet to the POINT OF BEGINNING.

Together with all appurtenances and existing or future improvements and all equipment, furnishings and fixtures owned by Mortgagor located on the Real Property, and all accessions, parts or additions to, all replacement of and all substitutions for any of such Property, and together with all proceeds therefrom, specifically excluding, however, all cash, inventories and supplies owned by Mortgagor.



200304160107

Skagit County Auditor

SWL 2
11744 Lake City Way, NE
Seattle, WA. 98125
King County
L & B Lease
SeaWend, Ltd.

**EXHIBIT A
LEGAL DESCRIPTION**

Record Owner: Fast Food Real
Estate
2646 Allison Court
Columbus OH 43220

Property know as 11744 Lake City Way, NE, Seattle, King County, Washington



200304160107
Skagit County Auditor

SWLZ

EXHIBIT "A"
to
Lessor's Waiver and Consent

Exhibit A attached to and made a part of that certain Lessor's Waiver and Consent entered into by and between Fast Food Real Estate Fund 78-A, as Lessor and Bank of America, N.A., as Lender, dated December _____, 2002.

[LEASED PREMISES]

The Northwesterly half of Lot 36 and all of Lots 37, 38, 39, 40, 41 and 42, Block 12, of Homewood Park, according to the plat recorded in Volume 22 of Plats, Page 73, in King County, Washington;

TOGETHER WITH the Northeasterly half of vacated alley adjoining;

AND TOGETHER WITH vacated portion of Victory Way adjoining and lying Northeasterly of the centerline of said vacated alley extended Northwesterly;

EXCEPT the Northeasterly 100 feet of said Lots 36, 37, 38 and 39, as measured along the lot lines;

AND EXCEPT that portion thereof described as follows:

BEGINNING at the Northwesterly corner of the above described tract; thence Southwesterly along the Easterly line of Lake City Way Northeast a distance of 127 feet; thence Easterly parallel with the South line of Northeast 120th Street a distance of 100 feet; thence Northeasterly parallel with said East line of Lake City Way Northeast to said South line of Northeast 120th Street; thence Westerly along said South line to the POINT OF BEGINNING;

AND EXCEPT the Southwesterly 90 feet of said Lots 39, 40 and 41, as measured along the East line of said Lot 39, together with those portions of the above mentioned vacated alley and vacated street lying Southerly of the Northeasterly line of said excepted Parcel extended Northwesterly and lying Northwesterly of the Southeasterly line of said Lot 39 extended Southwesterly.



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SWL 6
31255 State Route 20
Oak Harbor, WA 98277
Island County
L & B Lease & Eq.
SeaWend, Ltd.

**EXHIBIT A
LEGAL DESCRIPTION**

Property known as 31255 State Route 20, Oak Harbor, Island County, Washington

Record owners:
Oak Harbor Associates
c/o Kirlan Inc
221 1st Ave. W Suite 108
SEATTLE WA 98119

JAMES Hanken Mary
Alice Hanken

Suite 3210
Wells Fargo Center
999 Third Ave
Seattle WA 98104



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Skagit County Auditor

SWL6

EXHIBIT "A"
to
Lessor's Waiver and Consent

Exhibit A attached to and made a part of that certain Lessor's Waiver and Consent entered into by and between Oak Harbor Associates, as Lessor and Bank of America, N.A., as Lender, dated _____, 2003.

[LEASED PREMISES]

Lot 1, Plat of Enterprise Addition according to the Plat thereof recorded in Volume 12 of Plats, page 37, records of Island County, Washington



200304160107
Skagit County Auditor

4/16/2003 Page 25 of 42 11:39AM

SWL 8
1830 1st Street
Port Angeles, WA 98362
Clallam County
Ground Lease
SeaWend, Ltd.
Fee Owner: Port Angeles Associates

**EXHIBIT A
LEGAL DESCRIPTION**

Property know as 1830 1st Street Port Angeles, Clallam County Washington

Lot 1 of MacMillan Short Plat recorded on May 20, 1980 in Volume 8 of Short Plats, page 55, under Auditor's File No. 507931, being a portion of Blocks 2, 3 and 4 of Green's Belle View Addition to Port Angeles; Situate in Clallam County, Washington.

Record Owner: Port Angeles Associates
1624 Washington Bldg
Seattle, WA 98101
+
90 Kurlan, INC
221 - 1st Ave - W #108
Seattle WA 98119



200304160107
Skagit County Auditor

4/16/2003 Page 26 of 42 11:39AM

SWL 10 2125
Bel-Red Road
Redmond, WA 98052
King County
L & B Lease
SeaWend, Ltd.

**EXHIBIT A
LEGAL DESCRIPTION**

Property known as Bel-Red Road, Redmond, King County, Washington

Record Owner: Ashlene
Properties LLC,
1500 Skyline Tower
10900 NE Fourth St
Bellevue, WA
98004-5841
Attn: Kay Brossard



200304160107
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EXHIBIT A

SWL 10

DESCRIPTION:

25,000 square feet of the North 405.3 feet of that portion of the South half of the Northeast quarter of the Northwest quarter of Section 26, Township 25 North, Range 5 East, W.M., in King County, Washington, lying Westerly of County Road No. 966; EXCEPT Westerly 30 feet and EXCEPT the South 185.60 feet thereof.

A short plat is pending. As soon as it is approved and recorded LESSOR shall fill in the blanks in the description below and it shall be the legal description of the leased premises:

Lot ___ on the ~~Short Plat of a portion~~
of the City of Redmond, Washington recorded
in Volume _____ of Plats on pages _____ through
_____ inclusive under the King County Recorder's
Fee number _____.



200304160107
Skagit County Auditor

SWL 11
312 Central Way
Kirkland, WA 98033
King County
L & B Lease
SeaWend, Ltd.

**EXHIBIT A
LEGAL DESCRIPTION**

Property know as 312 Central Way, Kirkland, King County, Washington

Record Owner:
Dahava Financial Company
5301 2nd Ave South
Seattle, WA 98108



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EXHIBIT "A"
to
Lessor's Waiver and Consent

Exhibit A attached to and made a part of that certain Lessor's Waiver and Consent entered into by and between Dahava Financial Company, as Lessor and Bank of America, N.A., as Lender, dated December, _____, 2002.

[LEASED PREMISES]

EXHIBIT "A"

SW#11

LEGAL DESCRIPTION

Lots 35 through 46 in Block 95 of Kirkland Terrace, according to plat recorded in Volume 21 of Plats, page 42, in King County, Washington.

 A



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EXHIBIT A

11525 N. E. 124th ST.
KIRKLAND, WA
STORE #1724

SWL12

The land referred to is in the State of Washington, County of King, and is described as follows:

Lot 1, as delineated on King County Short Plat No. 579027, recorded April 1, 1980, under Auditor's File No. 8004010857, being a portion of the following described property.

That portion of the Northeast quarter of the Northeast quarter of the Southeast quarter of Section 29, Township 26 North, Range 5, East, W. M., in King County, Washington, lying South of the Southerly margin of Northeast 124th Street, as conveyed to King County by deed recorded under Auditor's File No. 6124763;

EXCEPT the West 450 feet;

AND EXCEPT that portion condemned in King County Superior Court Cause No. 829498 for SR-405, Northrup Interchange to Northeast 140th Street.



200304160107
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SWL 13
6315 33rd Ave. N.E.
Marysville, WA 98271
Snohomish County
Ground Lease
SeaWend, Ltd.

**EXHIBIT A
LEGAL DESCRIPTION**

Property known as 6315 33rd Ave. N.E., Marysville, Snohomish County, Washington

Record Owner:
Charles W. Anderson
Jon C. Petersen
d/b/a TMI Associates
P.O. Box 1481
Bellevue WA 98009



200304160107

Skagit County Auditor

4/16/2003 Page

32 of

42 11:39AM

EXHIBIT A

**6315 33RD AVE., N.E.
MARYSVILLE, WA
STORE #1973**

THAT PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 30 NORTH; RANGE 5 EAST, W.M., SNOHOMISH COUNTY, WASHINGTON, LYING WESTERLY OF THE WASHINGTON STATE HIGHWAY (PSH L SR 5) RIGHT-OF-WAY AS APPROVED ON SEPTEMBER 12, 1955, AND RECORDED IN DOCUMENT NO. 123-526 IN THE RECORDS OF THE BUREAU OF INDIAN AFFAIRS, PORTLAND, OREGON, AND LYING SOUTHERLY OF THE OLD MARYSVILLE-TULALIP ROAD RIGHT-OF-WAY AS APPROVED ON JANUARY 15, 1931, AND RECORDED IN DOCUMENT NO. 123-155 IN THE RECORDS OF THE BUREAU OF INDIAN AFFAIRS, PORTLAND, OREGON, AND LYING EASTERLY AND NORTHERLY OF THE PRESENT MARYSVILLE-TULALIP ROAD RIGHT-OF-WAY (NOW IDENTIFIED AS 33RD AVENUE N.E. AND 4TH STREET) DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE EAST RIGHT-OF-WAY MARGIN OF SAID 33RD AVENUE NORTHEAST, AS SHOWN ON WASHINGTON STATE HIGHWAY DEPARTMENT MAP OF SR 5, 'MARYSVILLE TO QUILCEDA CREEK', SHEET 3 OF 10 APPROVED FEBRUARY 1, 1967, BEING SOUTH 89°32'05" EAST 75.00 FEET FROM HIGHWAY ENGINEERS STATION (4TH STREET) 19+96.59 P.T.; THENCE NORTH 00°27'55" EAST ALONG SAID MARGIN 278.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID MARGIN NORTH 00°27'55" EAST 208.00 FEET; THENCE SOUTH 89°32'05" EAST 180.00 FEET; THENCE SOUTH 00°27'55" WEST PARALLEL WITH SAID MARGIN 208.00 FEET; THENCE NORTH 89°32'05" WEST 180.00 FEET TO THE POINT OF BEGINNING.



200304160107

Skagit County Auditor

SWL 18
3404 172nd Street N.E.
Arlington, WA 98223
Snohomish County
L & B Lease
SeaWend, Ltd.

**EXHIBIT A
LEGAL DESCRIPTION**

Record Owner: Mama Northwest LLC
Kirk Balin, Ann Balin

Property known as 3404 172nd Street N.E., Arlington, Snohomish County, Washington

8019 144th Dr SE
Snohomish,
WASHINGTON 98290



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SWL18

EXHIBIT 'A'

LOT 6, SMOKEY POINT SHOPPING CENTER BINDING SITE PLAN RECORDED UNDER RECORDING NO. 9309295001 IN VOLUME 1 OF BINDING SITE PLANS, PAGES 292 THROUGH 295, RECORDS OF SNOHOMISH COUNTY, WASHINGTON, TOGETHER WITH A PERPETUAL NON-EXCLUSIVE COMMON DRIVEWAY AND UTILITIES EASEMENT AS DESCRIBED IN THE "CIRCULATION AGREEMENT" RECORDED UNDER RECORDING NO. 9312010150. SITUATE IN THE COUNT OF SNOHOMISH, STATE OF WASHINGTON.



200304160107

Skagit County Auditor

SWL 19
1560 South Burlington Rd.
Burlington, WA 98233
L & B Lease
SeaWend, Ltd.

**EXHIBIT A
LEGAL DESCRIPTION**

Property know as 1560 South Burlington Rd., Burlington, Skagit County, Washington



200304160107
Skagit County Auditor

SW# 19

Order No. 31600
Commitment No. 31600

SCHEDULE "C"

The land referred to in this commitment is situated in the County of SKAGIT, State of Washington, and is described as follows:

Tract "C" "Plat Of K-Mart Commercial Park" as per plat recorded in Volume 14 of plats, pages 126 and 127, records of Skagit County, Washington.

Post-It [®] Fax Note	7671	Date	3/13/03	# of pages	9
To	Catherine Powell		From	John Weston	
Co./Dept.			Co.		
Phone #			Phone #		
Fax #			Fax #		



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SCHEDULE I
LIST OF ORIGINAL MORTGAGES/LOAN DOCUMENTS



200304160107

Skagit County Auditor

4/16/2003 Page 38 of 42 11:39AM

SCHEDULE I
PRIOR LOAN DOCUMENTS
SEAWEND, LTD.

Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing from SeaWend, LTD. to the Huntington National Bank in the principal amount of \$55,000,000.00 dated October 30, 1998 and recorded as follows:

- a. Snohomish County
Recorded November 2, 1998 as Instrument No. 9811020989
- b. King County
Recorded November 2, 1998 as Instrument No. 9811022140
- c. Kitsap County
Recorded November 2, 1998 as Instrument No. 3130252
- d. Whatcom County
Recorded November 2, 1998 as Instrument No. 1981100723

Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing from SeaWend, LTD. to the Huntington National Bank in the principal amount of \$11,500,000.00 dated April 12, 2002 and recorded as follows:

- a. Snohomish County
Recorded April 29, 2002 as Instrument No. 200204290475
- b. King County
Recorded April 26, 2002 as Instrument No. 20020426000664
- c. Kitsap County
Recorded April 29, 2002 as Instrument No. 200204290210
- d. Whatcom County
Recorded April 29, 2002 as Instrument No. 2020404835



200304160107
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SCHEDULE II
DESCRIPTION OF WASHINGTON LEASES

UNOFFICIAL DOCUMENT



200304160107
Skagit County Auditor

4/16/2003 Page 40 of 42 11:39AM

SCHEDULE IT
(Schedule of Leases)

SeaWend, Ltd.

SWL

1. **SWL #1**-Lease dated October 26, 1977, by and between Panos Properties, L.L.C. (as successor) as the Landlord, and SeaWend, Ltd (as successor) re: 15226 Aurora Ave., Seattle, WA. 98133; as amended from time to time, and as assigned and assumed by SeaWend, LTD pursuant to that certain Assignment and Assumption Agreement dated October 1, 1998, by and between Wendy's International, Inc. and SeaWend, Ltd.
2. **SWL #2**- Lease dated August 30, 1978, by and between Fast Food Real Estate Fund as the Lessor, and Seatawa Foods, Inc., as the Lessee, re: 11744 Lake City Way N.E., Seattle, Wash. 98125, as amended from time to time, and as assigned and assumed by SeaWend, LTD pursuant to that certain Assignment and Assumption Agreement dated October 1, 1998, by and between Wendy's International, Inc. and SeaWend, Ltd.
3. **SWL#6**- Lease (Real Estate Lease) dated April 22, 1980, by and between Oak Harbor Associates as original Landlord and Seatawa Foods, Inc. as original Lessee, re: 31255 State Rt. 20, Oak Harbor, Wash. 98277, as amended by that certain Amendment to Lease dated February 18, 1995 assigning Seatawa's Interest in Lease to Wendy's International, Inc. as further assigned by that certain Assignment and Assumption Agreement dated as of October 1, 1998, by and between Wendy's International, Inc. as the Assignor, and SeaWend, Ltd. as the Assignee.
4. **SWL #6**-Lease (Equipment) dated April 22, 1980, by and between Oak Harbor Associates as original Landlord and Seatawa Foods, Inc. as original Lessee, re: 31255 State Rt. 20, Oak Harbor, Wash. 98277, as amended by that certain Amendment to Lease dated February 10, 1995 assigning Seatawa's Interest in Lease to Wendy's International, Inc. as further assigned by that certain Assignment and Assumption Agreement dated as of October 1, 1998, by and between Wendy's International, Inc. as the Assignor, and SeaWend, Ltd. as the Assignee
5. **SWL #8**- Lease dated March 24, 1981, by and between Port Angeles Associates, as the Lessor and The Food Group, Inc., as the Lessee, re: 1830 E. 1st Street., Port Angeles, Wash. 98362, as amended from time to time, and as assigned and assumed by SeaWend, Ltd. pursuant to Assignment and Assumption Agreement dated as of October 1, 1998, by and between Wendy's International, Inc. as the Assignor, and SeaWend, Ltd., as the Assignee.



200304160107
Skagit County Auditor

6. **SWL #10-** Lease, dated November 24, 1978, by and between James and Janiece Pipers, as the Lessor and Seatawa Foods, Inc., as the Lessee, regarding: 2125 Bel-Red Rd., Redmond, Wash. 98052, as amended dated May 7, 1979, by and between the parties above, as amended from time to time, and as assumed and assigned by Wendy's International to SeaWend, Ltd. pursuant to that certain Assignment and Assumption Agreement dated as of October 1, 1998, by and between Wendy's International, Inc. as the Assignor, and SeaWend, Ltd., as the Assignee.
7. **SWL #11-** Lease is made this April 26, 1999, by and between Dahava Financial Company, as the Landlord, and SeaWend, LTD, as the Tenant, regarding 312 Central Way, Kirkland, Wash. 98033
8. **SWL#12-**Lease Agreement dated October 18, 1991, by and between Alfred B and Ellen Y Liu, as landlord, and Wendy's International, Inc., as lessee, regarding: 11525 NE 124th Kirkland, WA 98034, as assigned and assumed by SeaWend, Ltd. pursuant to the terms and conditions of that certain Assignment and Assumption Agreement dated as of October 1, 1998, by and between Wendy's International, Inc. as the Assignor, and SeaWend, Ltd., as the Assignee.
9. **SWL#13-**Ground Lease dated July 1, 1991, by and between the Bureau of Indian Affairs, et al, as ground lessor, and Charles Anderson, et al as "Sublessee", regarding: 6315 33rd Avenue, N.E., Marysville, WA, as subleased by Sublessee, as sublessor, to Wendy's International, Inc., as sublessee, pursuant to Sublease Agreement dated May 28, 1993, as amended from time to time, and as assigned and assumed by SeaWend, Ltd., pursuant to the terms and conditions of that certain Assignment and Assumption Agreement dated as of October 1, 1998, by and between Wendy's International, Inc. as the Assignor, and SeaWend, Ltd., as the Assignee.
10. **SWL #18-**Real Property Lease dated November 21, 1995, by and between Wendy's International Inc., as landlord, and Manna Northwest, Inc. as lessee, regarding: 3404 172nd street N.E., Arlington, Wash. 98223, as assigned and assumed by SeaWend, Ltd. pursuant to the terms and conditions of that certain Lease Assignment and Assumption Agreement dated as of March 26, 1999, by and between Manna Northwest, Inc.. as the Assignor, and SeaWend, Ltd., as the Assignee.
11. **SWL #19-** Real Property Lease dated April 5, 1993, by and between Wendy's International Inc., as landlord, and Manna Northwest, Inc. as lessee, regarding: 1560 South Burlington Blvd, Burlington, WA 98223, as assigned and assumed by SeaWend, Ltd. pursuant to the terms and conditions of that certain Lease Assignment and Assumption Agreement dated as of March 26, 1999, by and between Manna Northwest, Inc.. as the Assignor, and SeaWend, Ltd., as the Assignee.



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