



200404010074
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After Recording Mail To:

KEYBANK NATIONAL ASSOCIATION
McDonald Financial Group
Mailcode WA-31-18-0238
601 108th Avenue N.E., Suite 260
Bellevue, Washington 98004]
Attn: Megan Sweeters, Vice President

Loan No.: 1065408 LAND TITLE OF SKAGIT COUNTY

**SUBORDINATION AND ATTORNMENT AGREEMENT
AND ESTOPPEL CERTIFICATE**

THIS AGREEMENT AND CERTIFICATE is made this 12th day of February, 200⁴, between KEYBANK NATIONAL ASSOCIATION, a national banking association ("**Lender**") and Beneficial Washinton Inc. Delaware Corporation ([individually and collectively referred to as]"**Tenant**").

Recital

A. ~~Amada Burlington, LLC~~ NEBEN BURLINGTON B, LLC ("**Landlord**"), are the owners of real property ("**Property**") located in Skagit County, Washington, and legally described on Exhibit A.

B. Tenant is a tenant of a portion of the Property ("**Premises**") under a lease ("**Lease**") with Landlord dated June 13, 2001. * Located at 1212 S. Burlington Burlington, WA 98233 Blvd.

C. Lender has agreed to make a loan ("**Loan**") to Landlord, secured by a Deed of Trust, Assignment of Rents and Leases and Security Agreement ("**Deed of Trust**") encumbering the Property. The Deed of Trust constitutes a present assignment to Lender of all right, title, and interest of Landlord under the Lease. The Deed of Trust was recorded on April 1, 2004 under Skagit County Auditor's File No. 200404010071

D. Lender's agreement to make the Loan is conditioned on Tenant's subordination of the Lease to the Deed of Trust, and Tenant's agreement to attorn to

Lender if Lender obtains possession of the Property by foreclosure or deed in lieu of foreclosure and the Lease has not terminated as a result of any such foreclosure. Tenant is willing to do so in consideration of the benefits to Tenant from the Loan and Lease.

NOW, THEREFORE, Lender and Tenant agree as provided below.

1. **Subordination.** Tenant hereby subordinates the Lease and all of its rights thereunder to the Deed of Trust and all of Lender's rights thereunder, including any and all renewals, modifications and extensions thereof. Without limiting the generality of the foregoing, such subordination shall include all rights of Tenant in connection with any insurance or condemnation proceeds with respect to the Premises or Property.

2. **Attornment.** If Lender obtains possession of the Property by foreclosure or deed in lieu of foreclosure, and the Lease has not been terminated as a result of any such foreclosure, Tenant shall attorn to Lender and recognize Lender as the landlord under the Lease for the unexpired term of the Lease. Such attornment shall be effective without Lender being (i) subject to any offsets or defenses, or otherwise liable, for any prior act or omission of Landlord, (ii) bound by any amendment, modification, or waiver of any of the provisions of the Lease, or by any separate agreement between Landlord and Tenant relating to the Premises or Property, unless any such action was taken with the prior written consent of Lender, (iii) liable for the return of any security or other deposit unless the deposit has been paid to Lender, (iv) bound by any payment of rent or other monthly payment under the Lease made by Tenant more than one (1) month in advance of the due date, or (v) bound by any option, right of first refusal, or similar right of Tenant to lease any portion of the Property (other than the Premises) or to purchase all or any portion of the Property. Lender's obligations as landlord under the Lease after obtaining possession of the Property by foreclosure or deed in lieu of foreclosure shall terminate upon Lender's subsequent transfer of its interest in the Property. ***Other than exercise of rights, options, or elections contained in the Lease. ** Which unreasonably withheld. *** See Exhibit B**

won't be **Covenants of Tenant.** Tenant covenants and agrees with Lender as follows:

(a) Tenant shall pay to Lender all rent and other payments otherwise payable to Landlord under the Lease upon written demand from Lender. The consent and approval of Landlord to this Agreement shall constitute an express authorization for Tenant to make such payments to Lender and a release and discharge of all liability of Tenant to Landlord for any such payments made to Lender.

(b) Tenant shall enter into no material amendment or modification of any of the provisions of the Lease without Lender's prior written consent.

***Other than exercise of rights, options or elections contained in the Lease. ** Which won't be withheld. Unreasonably withheld.**



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(c) Tenant shall not subordinate its rights under the Lease to any other mortgage, deed of trust, or other security instrument without the prior written consent of Lender.

(d) In the event the Lease is rejected or deemed rejected in any bankruptcy proceeding with respect to Landlord, Tenant shall not exercise its option to treat the Lease as terminated under 11 U.S.C. § 365(h), as amended.

(e) Tenant shall not accept any waiver or release of Tenant's obligations under the Lease by Landlord, or any termination of the Lease by Landlord, without Lender's prior written consent.

(f) Tenant shall promptly deliver written notice to Lender of any default by Landlord under the Lease. Lender shall have the right to cure such default within thirty (30) days after the receipt of such notice. Tenant further agrees not to invoke any of its remedies under the Lease until the thirty (30) days have elapsed, or during any period that Lender is proceeding to cure the default with due diligence, or is attempting to obtain the right to enter the Premises and cure the default.

4 **Effect of Assignment.** Notwithstanding that Landlord has made a present assignment of all of its rights under the Lease to Lender, Lender shall not be liable for any of the obligations of Landlord to Tenant under the Lease until Landlord has obtained possession of the Property by foreclosure or deed in lieu of foreclosure without electing to terminate the Lease, and then only to the extent provided in paragraph 2 above.

5. **Estoppel Certifications.** Tenant hereby certifies to Lender as provided below.

(a) The Lease constitutes the entire agreement between Landlord and Tenant relating to the Premises and the Property.

(b) The Lease is in full force and effect, and has not been amended, modified, or assigned by Tenant.

(c) No payments to become due under the Lease have been paid more than one (1) month in advance of the due date.

(d) Tenant has no present claim, offset or defense under the Lease, and Tenant has no knowledge of any uncured default by Landlord under the Lease.

~~Tenant reserves its right to audit any past escalation costs and further reserves its right to any claims as a result thereof.~~ (e) Tenant has no knowledge of any prior sale, transfer, assignment, hypothecation or pledge of Landlord's interest under the Lease or of the rents due under the Lease.



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(f) Except as otherwise provided in the Lease, Tenant has made no agreements with Landlord concerning free rent, partial rent, rebate of rental payments, setoff, or any other type of rental concession.

6. **Costs and Attorneys' Fees.** In the event of any claim or dispute arising out of this Agreement, the party that substantially prevails shall be awarded, in addition to all other relief, all *attorneys' fees and other costs and expenses incurred in connection with such claim or dispute; including without limitation those *fees, costs, and expenses incurred before or after suit, and in any arbitration, and any appeal, any proceedings under any present or future bankruptcy act or state receivership, and any post-judgment proceedings.

***reasonably**

7. **Notices.** All notices to be given under this Agreement shall be in writing and personally delivered or mailed, postage prepaid, certified or registered mail, return receipt requested, to Lender at the address indicated on the first page of this Agreement, and to Tenant at its address indicated below. All notices which are mailed shall be deemed given three (3) days after the postmark thereof. Either party may change their address by delivery of written notice to the other party.

8. **Miscellaneous.** This agreement may not be modified except in writing and executed by the parties hereto or their successors in interest. This agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. As used herein, "Landlord" shall include Landlord's predecessors and successors in interest under the Lease, and "Lender" shall include any purchaser of the Property at any foreclosure sale. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, such provision shall be considered severed from the rest of this Agreement and the remaining provisions shall continue in full force and effect as if such provision had not been included. This Agreement shall be governed by the laws of the State of Washington.

DATED this 12th day of February, 2004.

"LENDER"

KEYBANK NATIONAL ASSOCIATION, a national banking association

By: Michael Sweetser
Its Vice President 3-3004



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"TENANT"

BENEFICIAL WASHINGTON INC.

Gail A. Fahey

Gail A. Fahey, Vice President, Leasing Division

Address: 2700 Sanders Road
Prospect Heights, IL 60070
Attn: Leasing Department

CONSENTED AND AGREED TO:

"LANDLORD"

Armada Burlington LLC

MEMBER 30 MAR 04
NELSEN BURLINGTON B, LLC

BY SIGNING THIS Agreement, Tenant has agreed to the terms hereof. However, such agreement is hereby expressly conditioned on Landlord and Lender properly executing this Agreement and returning to Tenant not less than one fully executed original by May 12, 2004. If Beneficial does not receive such a fully executed original on or before such date, this Agreement shall be null and void and shall in no way bind Tenant.



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**EXHIBIT A
TO
SUBORDINATION, NONDISTURBANCE AND
ATTORNMEN T AGREEMENT AND ESTOPPEL CERTIFICATE**

Legal Description

The Property is located in Skaggit County, Washington, and is legally described as follows:

LOT 2 OF WALTERS BINDING SITE PLAN NO. BURL-BSP-2-00.



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Schedule "A-1"

DESCRIPTION:

Lot 2, Revised City of Burlington Binding Site Plan No. Burl-BSP-2-00, approved October 3, 2001, recorded October 3, 2001, under Skagit County Auditor's File No. 200110030143, and being a portion of the Northwest ¼ of the Southwest ¼, Section 5, Township 34 North, Range 4 East, W.M.

TOGETHER WITH parking, access and utility easements delineated on said Plan as appurtenant thereto and as set forth in instrument recorded March 5, 2001, under Auditor's File No. 200103150016.

Situate in the County of Skagit, State of Washington.

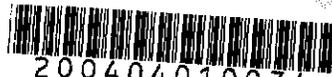


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Exhibit B

TENANT NOT TO BE DISTURBED. So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or additional rent or in the performance of any of the terms, covenants, or conditions of the Lease on Tenant's part to be performed, Tenant's possession of the Premises or any extensions or renewal rights therefor in the Lease, shall not be diminished or interfered with by Lender, and Tenant's occupancy of the Premises shall not be disturbed by Lender for any reason whatsoever during the term of the Lease or any such extensions or renewal thereof except as may be provided in the Lease.



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NOTARY PAGE

STATE OF WASHINGTON }
 } ss.
County of King }

I hereby certify that I know or have satisfactory evidence that Megan Sweetser

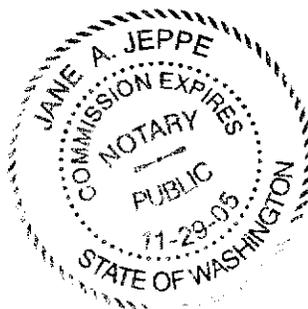
is the person(s) who appeared before me, and said person(s) acknowledged that (he, she, they) signed this instrument, on oath stated that she is authorized to execute the instrument and acknowledge it as the Vice President of KeyBank National Association to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: 3/27/04

Jane A Jeppe
Notary Public in and for the State of Washington

Printed Name Jane A Jeppe

Residing at Seattle
My appointment expires 11/29/05



STATE OF WASHINGTON }
 } ss.
County of King }

I hereby certify that I know or have satisfactory evidence that Arnold Burlingame

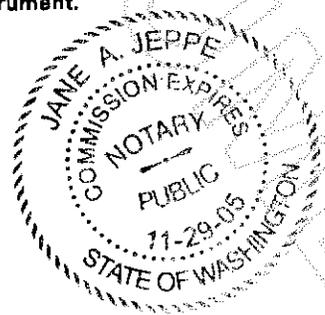
is the person(s) who appeared before me, and said person(s) acknowledged that (he, she, they) signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledge it as the Managing Member of Arnold Burlingame LLC to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: 3/31/04

Jane A Jeppe
Notary Public in and for the State of Washington

Printed Name Jane A Jeppe

Residing at Seattle
My appointment expires 11/29/05



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