



200408050112
Skagit County Auditor

8/5/2004 Page 1 of 4 11:12AM

AFTER RECORDING RETURN TO:

Horizon Bank
Commercial Banking Center
2211 Rimland Drive, Suite 230
Bellingham, WA 98226-5699
Attention: Sue Cedergreen

CHICAGO TITLE SB15544; SB15545; SB16060 ✓

WASHINGTON STATE COUNTY AUDITOR'S/RECORDER'S INFORMATION (RCW 65.04):

GRANTOR: BRIAR DEVELOPMENT COMPANY LLP

GRANTEE: HORIZON BANK

ABBREVIATED

LEGAL DESCRIPTION: LOT 3, MOUNT VERNON SHORT PLAT NO. MV-5-98; PTN. NW, SEC. 21, T34N, R4E W.M. (Deed of Trust #57)

LOT 2, MOUNT VERNON SHORT PLAT NO. MV-5-98; PTN. NW, SEC. 21, T34N, R4E W.M. (Deed of Trust #58)

PTN. GOV'T LOT 1, SEC. 6, T34N, R4E W.M., BEING TRACT A, SURVEY #200001070083, & LOT 10, NORTHSOUND COMMERCIAL PARK (Deed of Trust #63)

[FOR FULL LEGAL DESCRIPTION SEE REFERENCED DEEDS OF TRUST]

ASSESSOR'S PROPERTY TAX

PARCEL ACCOUNT NUMBER(S): 340421-2-001-0100 (Deed of Trust #57); 340421-2-006 - 0100 (Deed of Trust #58); 340406-1-077-0200 (P117184); P23700 (8041-000-001-0000) (Deed of Trust #63)

REFERENCE NUMBER OF

RELATED DOCUMENTS: 199912220057(Deed of Trust #57); 199912220058(Deed of Trust #58); AND 200006080063 (Deed of Trust #63)

DEED OF TRUST MODIFICATION AGREEMENT

THIS DEED OF TRUST MODIFICATION AGREEMENT ("Agreement") is made to be effective as of July 28, 2004 by and among:

"Lender" - HORIZON BANK

"Borrower" - BRIAR DEVELOPMENT COMPANY LLP, a Washington limited liability partnership, formerly known as Briar Development Company, a Washington general partnership

"Guarantor" - DONALD E. HAGGEN and RICHARD R. HAGGEN

with respect to the following facts:

A. On or about December 20, 1999, Borrower granted to Lender a Deed of Trust ("**Deed of Trust #57**") made by Borrower as Grantor, recorded December 22, 1999, in Skagit County, Washington, under recording number 199912220057, and constituting a first lien encumbrance on the real and personal property and fixtures described in Deed of Trust #57, for the purpose of securing certain obligations to Lender.

B. On or about December 20, 1999, Borrower granted to Lender a Deed of Trust ("**Deed of Trust #58**") made by Borrower as Grantor, recorded December 22, 1999, in Skagit County, Washington, under recording number 199912220058, and constituting a first lien encumbrance on the real and personal property and fixtures described in Deed of Trust #58, for the purpose of securing certain obligations to Lender.

C. On or about May 25, 2000, Borrower granted to Lender a Deed of Trust ("**Deed of Trust #63**") made by Borrower as Grantor, recorded June 8, 2000, in Skagit County, Washington, under recording number 200006080063, and constituting a first lien encumbrance on the real and personal property and fixtures described in Deed of Trust #63, for the purpose of securing certain obligations to Lender.

D. Deed of Trust #57, Deed of Trust #58, and Deed of Trust #63 are hereafter together referred to together as the "**Deeds of Trust.**"

NOW, THEREFORE, in consideration of the mutual benefits to be derived herefrom, it is agreed:

1. **Recitals.** The above recitals are true and correct and together with the Loan Documents, are by this reference incorporated into this Agreement as though fully set forth.

2. **Modification of Deeds of Trust.** Lender and Borrower agree that the Deeds of Trust are hereby modified to provide that the Deeds of Trust shall each secure all "Obligations," as such term is defined in the Credit Agreement dated July 28, 2004, between Borrower and Lender, including all renewals, modifications, and extensions of said Obligations, as evidenced by amendments, restatements, or replacements of the Credit Agreement or of the "Revolving Note" as defined therein. All references in the Deeds of Trust to maturity dates of the obligations secured thereby are hereby deemed deleted. The Deeds of Trust secure a revolving line of credit, currently in the maximum principal amount of \$7,000,000.

3. **Representations and Warranties.** To induce Lender to enter into this Agreement, Borrower represents and warrants:

(a) Borrower has full legal power and authority to enter into this Agreement, that all necessary consents and approvals for the execution and performance of this Agreement have been obtained, and when signed and delivered to Lender this Agreement will be the legal binding and enforceable obligation of Borrower. Borrower warrants that it is a Washington limited liability partnership, duly converted from a Washington general partnership pursuant to RCW 25.05.500, *et seq.*, and that its "organizational identification number" within the meaning of the Uniform Commercial Code is 602 350 546.



(b) Borrower owns and is vested in title to all of the Property described in the Deeds of Trust and, except for the lien of real estate taxes and assessments not yet due, tenants in possession under leases approved by Lender or which are subordinate to the Deeds of Trust, and other exceptions to title approved in writing by Lender, there exists no lien, charge or encumbrance against the properties affected by the Deeds of Trust created or arising subsequent to the recording date of the Deeds of Trust.

(c) Borrower acknowledges that Borrower has read this Agreement and all other documents required by Lender in connection with this Agreement, is familiar with their respective terms and conditions, and has had the opportunity for advice of counsel of Borrower's own selection in regard to the terms, meaning and effect of this Agreement and all such other documents. Borrower further acknowledges that Borrower has made this Agreement freely and voluntarily, without duress, and in reliance on no promise or representation of Lender or by which Lender is bound not expressly set forth herein.

4. **General:**

(a) **Entire Agreement.** This Agreement constitutes the entire agreement between Borrower and Lender with respect to the foregoing modification of the Deeds of Trust and shall not be amended except in writing signed by Lender and Borrower.

(b) **Ratification.** As modified herein the Deeds of Trust are ratified and affirmed and shall be and remain in full force and effect. This Agreement is not intended to and shall not be construed to impair the validity, priority or enforceability of the Deeds of Trust.

5. **Governing Law.** This Agreement shall be construed and enforced under the laws of the State of Washington. In any action or proceeding to construe or enforce this Agreement or any of the Deeds of Trust, the prevailing party shall recover its costs and reasonable attorneys' fees including those incurred in any trial or arbitration proceeding, in any bankruptcy or receivership proceeding, and in any appeal therefrom.


Made to be effective as of the date first set forth above.

Borrower:

Lender:

BRIAR DEVELOPMENT COMPANY LLP

HORIZON BANK

By: 
Dale C. Henley,
President and Chief Executive Officer

By: 
Sue Cedergreen, Senior Vice President

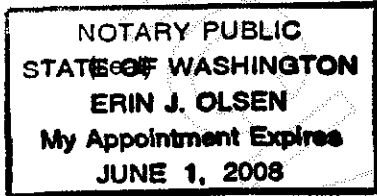
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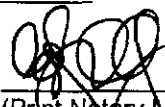


STATE OF WASHINGTON)
)§
COUNTY OF Whatcom)

I certify that I know or have satisfactory evidence that Sue Cedergreen is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledge it as the Senior Vice President of HORIZON BANK, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: July 29, 2004



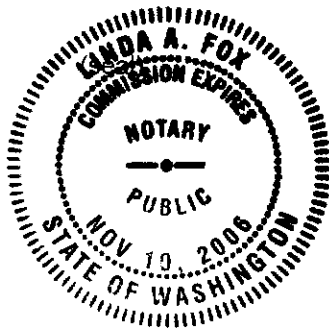


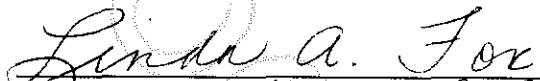
(Print Notary Name) ERIN J. OLSEN
Notary Public in and for the State of Washington
residing at BELLINGHAM
My appointment expires 6-1-2008

STATE OF WASHINGTON)
)§
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that Dale C. Henley is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledge it in his capacity as President and Chief Executive Officer of BRIAR DEVELOPMENT COMPANY LLP, a Washington limited liability partnership ("Borrower") to be the free and voluntary act of Borrower for the uses and purposes mentioned in the instrument.

Dated: July 29/04





(Print Notary Name) LINDA A FOX
Notary Public in and for the State of Washington
residing at Blaine, WA
My appointment expires NOV 19/06

