

When Recorded, Return to:

CHICAGO TITLE INSURANCE CO.
171 N. CLARK ST. MLC: 04SP
CHICAGO, IL 60601
ATTN: LILIA RODRIGUEZ



200507280145
Skagit County Auditor

7/28/2005 Page 1 of 11 10:58AM

**ASSIGNMENT OF AND SECOND AMENDMENT
TO REVOLVING CREDIT DEED OF TRUST**

5686 Site 18
(#33, Mt. Vernon (Staging Area), Riverbend (Skagit County), Washington)

| | |
|-----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Borrower: | <u>Color Spot Nurseries, Inc., a Delaware corporation</u> |
| <input type="checkbox"/> Additional on page | <u> </u> |
| Grantees: | Beneficiary: <u>Fleet Capital Corporation, as Retiring Agent</u> |
| | Trustee: <u>Chicago Title Insurance Company</u> |
| | Assignee: <u>Bank of America, N.A., as Successor Agent</u> |
| <input type="checkbox"/> Additional on page | <u> </u> |
| Legal Description (abbreviated): | <u>a portion of Section 13, Township 34 North, Range 3 East of the Willamette Meridian (Ptn. Sec. 13, T34N, R3E W.M.)</u> |
| <input checked="" type="checkbox"/> Additional on : | <u>Exhibit A</u> |
| Assessor's Tax Parcel ID #: | <u>340313-0-001-0001 R21662; 340313-0-060-0009 R21742; 340313-0-062-0007 R21745; 340313-0-065-0004 R21748; 340313-0-064-0005 R21747; 340313-1-002-0008 R21813; 340313-1-001-0009 R21812</u> |
| Reference Nos. of Documents Amended: | <u>9812010068</u> |

THIS ASSIGNMENT OF AND SECOND AMENDMENT TO REVOLVING CREDIT DEED OF TRUST ("**Amendment**") is dated as of June 16, 2005 and is by and between COLOR SPOT NURSERIES, INC., a Delaware corporation ("**Borrower**"), and FLEET CAPITAL CORPORATION, ("**Fleet**"), individually and as Retiring Agent (as hereinafter defined), and BANK OF AMERICA, N.A. ("**BofA**"), individually and as Successor Agent (as hereinafter defined).

RECITALS

A. Pursuant to a certain Second Amended and Restated Loan and Security Agreement dated as of November 10, 2003 (the "**Second Amended Loan Agreement**") between Borrower, various lenders who are from time to time signatory thereto ("**Lenders**"), and Fleet, as agent for Lenders, Lenders made loans in the maximum aggregate principal amount of \$30,000,000 (the "**Loans**") to Borrower, which Loans are secured by the deed of trust identified on **Schedule 1** attached hereto (the "**Deed of Trust**"), encumbering the real estate legally described on **Exhibit A** attached hereto.

B. Concurrently herewith, Borrower, Fleet, BofA and Lenders are entering into a certain Agreement Regarding Agency Resignation, Appointment and Acceptance of even date herewith, pursuant to which (i) Fleet is resigning as agent under the Second Amended Loan Agreement (Fleet, in such capacity as resigning agent, being hereinafter referred to as "**Retiring Agent**") and BofA is being appointed as successor agent (BofA, in such capacity as successor agent, being hereinafter referred to as "**Successor Agent**"); and (ii) Retiring Agent is assigning to Successor Agent all liens and security interests securing the Loans.

C. Further concurrently herewith, Borrower, Successor Agent and Lenders are entering into a Third Amended and Restated Loan and Security Agreement of even date herewith (said Third Amended and Restated Loan and Security Agreement, together with all amendments, supplements, modifications and replacements thereof, being hereinafter referred to as the "**Third Amended Loan Agreement**"), which amends and restates the Second Amended Loan Agreement in its entirety, and pursuant to which the Loans are being reduced to \$25,000,000 (the "**Second Amended Loans**"). The maturity date of all loans is being extended to April 30, 2010.

D. The parties hereto now desire to memorialize of record the assignment of the beneficial interest under the Deed of Trust by Retiring Agent to Successor Agent and further memorialize the reduction in the indebtedness which is secured by the Deed of Trust.

AGREEMENTS

1. The Recitals hereto are hereby incorporated into the Deed of Trust by reference.



200507280145

Skagit County Auditor

7/28/2005 Page

2 of 11 10:58AM

2. Retiring Agent hereby assigns to Successor Agent all its right, title and interest in and to the beneficial interest under the Deed of Trust without representation, warranty or recourse.

3. The Deed of Trust is hereby amended to conform to the terms hereof. Except as amended hereby, the Deed of Trust shall remain in full force and effect, in accordance with its original terms.

4. Borrower hereby acknowledges, agrees and reaffirms the Deed of Trust, as hereby amended, as security for the Second Amended Loans, and Borrower further acknowledges, agrees and reaffirms that the Deed of Trust retains a first lien priority on the real estate encumbered by the Deed of Trust, subject only to the Permitted Encumbrances (as defined in the Deed of Trust).



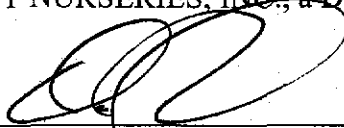
200507280145
Skagit County Auditor

7/28/2005 Page 3 of 11 10:58AM

IN WITNESS WHEREOF, this instrument is executed as of the day and year first above written by the person or persons identified below on behalf of Borrower and Agent (and each of said person or persons hereby represent that they possess full power and authority to execute this instrument).

COLOR SPOT NURSERIES, INC., a Delaware corporation

By


Name: Oscar Truyol

Title: Vice President and Chief Financial Officer

FLEET CAPITAL CORPORATION, individually and as
Retiring Agent

By

Name: **SEE ATTACHED COUNTERPART**
Title: **SIGNATURE PAGE**

BANK OF AMERICA, N.A., individually and as Successor
Agent

By

Name: **SEE ATTACHED COUNTERPART**
Title: **SIGNATURE PAGE**



200507280145

Skagit County Auditor

7/28/2005 Page

4 of

11 10:58AM

IN WITNESS WHEREOF, this instrument is executed as of the day and year first above written by the person or persons identified below on behalf of Borrower and Agent (and each of said person or persons hereby represent that they possess full power and authority to execute this instrument).

COLOR SPOT NURSERIES, INC., a Delaware corporation

By _____
Name: **SEE ATTACHED COUNTERPART**
Title: **SIGNATURE PAGE**

FLEET CAPITAL CORPORATION, individually
and as Retiring Agent

By *Jason Riley*
Name: Jason Riley
Title: VP

BANK OF AMERICA, N.A., individually and as
Successor Agent

By *Jason Riley*
Name: Jason Riley
Title: VP



200507280145
Skagit County Auditor

ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

} ss.

On this day personally appeared before me **OSCAR TRUYOL**, to me known to be the **VICE PRESIDENT AND CHIEF FINANCIAL OFFICER** of **COLOR SPOT NURSERIES, INC.**, a Delaware corporation, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 13 day of June, 2005.

Elena Dominguez
Printed Name Elena J Dominguez
NOTARY PUBLIC in and for the State of CALIFORNIA,
residing at FALLBROOK
My Commission Expires August 12, 2007



200507280145

Skagit County Auditor

7/28/2005 Page

6 of

11 10:58AM

ACKNOWLEDGMENT

STATE OF ILLINOIS

COUNTY OF COOK

} ss.

On this day personally appeared before me Jason Riley, to me known to be the Vice President of FLEET CAPITAL CORPORATION, as Retiring Agent, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 14th day of June, 2005.



Dawn L. Rinchiuso

Printed Name Dawn L. Rinchiuso
NOTARY PUBLIC in and for the State of Illinois,
residing at 55 E. Monroe St., #3700, Chicago, Illinois 60603
My Commission Expires March 26, 2006



200507280145

Skagit County Auditor

7/28/2005 Page

7 of

11 10:58AM

ACKNOWLEDGMENT

STATE OF Illinois }
COUNTY OF Cook } ss.

On this day personally appeared before me Jason Liley, to me known to be the Vice President of BANK OF AMERICA, N.A., as Successor Agent, that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such corporation, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 14 day of June, 2005.



Marie L. Studer
Printed Name Marie L. Studer
NOTARY PUBLIC in and for the State of IL
residing at 17833 Park Ave, Lansing, 60438
My Commission Expires 9-25-06



200507280145
Skagit County Auditor

SCHEDULE 1

IDENTIFICATION OF DEED OF TRUST

SEE ATTACHED



200507280145

Skagit County Auditor

Recording Requested By and When
Recorded Mail To:

Robert J. Goldberg, Esq.
Goldberg, Kohn, Bell, Black,
Rosenbloom & Moritz, Ltd.
55 East Monroe Street
Suite 3700
Chicago, Illinois 60603

KATHY HILL
SKAGIT COUNTY AUDITOR

98 DEC -1 P3-27

9812010068

RECORDED _____ FILED _____
REQUEST OF _____

DEED OF TRUST AND SECURITY AGREEMENT,

ISLAND TITLE CO. ASSIGNMENT OF RENTS AND LEASES,
QB-1850 ✓

Island Title Company has placed
this document for recording as a
customer courtesy and accepts no
liability for its accuracy or validity

SECURITY AGREEMENT AND UCC FIXTURE FILING

(Skagit County, Washington)

Island Title Company has placed
this document for recording as a
customer courtesy and accepts no
liability for its accuracy or validity

ACCOMMODATION RECORDING

Grantor (Borrower): **COLOR SPOT NURSERIES, INC.**

Grantee (Lender): **FLEET CAPITAL CORPORATION**
as Agent,
as Beneficiary for the Benefit of Various Lenders

Grantee (Trustee): **CHICAGO TITLE INSURANCE COMPANY**

Legal Description (abbreviated): Portion of Section 13, Township 34 North, Range 3
East of the Willamette Meridian (Ptn. Sec. 13, T34N, R3E W.M.)

Additional references to legal description(s) are on Exhibit 1.

Assessor's Property Tax Parcel or Account Numbers: 340313-0-001-0001 R21662;
340313-0-060-0009 R21742; 340313-0-062-0007 R21745; 340313-0-065-0004 R21748;
340313-0-064-0005 R21747; 340313-1-002-0008 R21813; 340313-1-001-0009 R21812

THIS DEED OF TRUST SECURES FUTURE ADVANCES

151541.v06 11/24/98 3:28 PM 38XH061.DOC

9812010068



200507280145
Skagit County Auditor

7/28/2005 Page 10 of 11 10:58AM

BK1906PG0380

EXHIBIT A
Legal Description

The West 20 Acres:

A portion of Section 13, Township 34 North, Range 1 East, W.M., Skagit County, Washington, described as follows:

Beginning at the North quarter corner of said Section 13, said point being on the North line of Lot 2, of Skagit County Short Plat No. 22-90, recorded in Book 10 of Short Plats, Pages 111 and 112; thence along said North line South 89 degrees 13' 02" East, a distance of 79.49 feet; thence South 00 degrees 42' 21" West, a distance of 1171.97 feet; thence North 89 degrees 13' 02" West, a distance of 81.85 feet to an existing fence; thence along said fence and projection thereof, the following six (6) courses and distances: thence North 00 degrees 42' 21" East, a distance of 463.34 feet; thence South 84 degrees 56' 28" West, a distance of 686.87 feet; thence South 10 degrees 59' 25" West, a distance of 74.47 feet; thence South 84 degrees 24' 33" West, a distance of 348.53 feet; thence North 05 degrees 05' 12" West, a distance of 87.68 feet; thence North 85 degrees 00' 17" West, a distance of 137.38 feet to the East right-of-way line of the County Road; thence along said County Road to the most Westerly corner of said Lot 2 of Short Plat No. 22-90; thence along the Westerly and Northerly boundary of said Lot 2, to the point of beginning, EXCEPT roads and dike right-of-way.

(No. 33 -(Skagit County Washington) LSE)



200507280145
Skagit County Auditor