

RECORDING REQUESTED BY:

AND WHEN RECORDED MAIL TO:

UNION BANK OF CALIFORNIA, N.A.  
145 S. State College Blvd., Ste. 600  
Brea, California 92821  
Attention: Loan Service Department



200812090088  
Skagit County Auditor

12/9/2008 Page 1 of 39 3:58PM

CHICAGO TITLE COMPANY  
IC46774

**DEED OF TRUST, SECURITY AGREEMENT,  
ASSIGNMENT OF RENTS AND FIXTURE FILING**

Grantor: 1) VALLEY VIEW III, L.L.C., A WASHINGTON LIMITED LIABILITY COMPANY	2)
Grantee: 1) UNION BANK OF CALIFORNIA, N.A. <input type="checkbox"/> Additional on page _____	2) CHICAGO TITLE INS COMPANY
Legal Description <u>PTN. LOT 2, SURVEY AF#9305180067 IN 13-35-4</u> <input checked="" type="checkbox"/> Additional on page <u>Exhibit A</u>	
Assessor's Tax Parcel ID #: <u>P105620</u>	
Reference Nos. of Documents Released or Assigned: _____	

**NOTICE TO RECORDER AND TITLE COMPANIES:** This Deed of Trust also constitutes and contains an Assignment of Leases and Rents, a UCC Security Agreement, and a UCC Fixture Filing, and should be filed and indexed in the real estate records under all applicable categories.

("Deed of Trust") is made as of NOVEMBER 28, 2008, by VALLEY VIEW III, L.L.C., A WASHINGTON LIMITED LIABILITY COMPANY ("Trustor"), whose address is 30205 33RD AVENUE SW, FEDERAL WAY, WA 98023 to CHICAGO TITLE INS COMPANY ("Trustee"), whose address is 425 COMMERCIAL STREET, MOUNT VERNON, WA 98273, for the benefit of UNION BANK OF CALIFORNIA, N.A., a National Banking Association, whose address is 145 S. State College Boulevard, Suite 600, Brea, California 92821 ("Beneficiary").

**WITNESSETH:**

That Trustor grants, bargains, sells, conveys and warrants to Trustee, in trust with the power of sale, all of its current and hereafter acquired right, title and interest in and to that certain property located in or about the City of SEDRO WOOLLEY, County of SKAGIT, State of WASHINGTON, more particularly

described in Exhibit "A" attached hereto and made a part hereof, which property is not used principally for agricultural or farming purposes, together with the following-described estate, property and rights of Trustor (herein collectively called the "Property") as security for the performance of the matters set forth in Section 1 below:

A. All fee and leasehold estates and rights of Trustor now held and hereafter acquired in and to the property and in and to all land lying in streets and roads adjoining the Property and all access rights and easements appertaining thereto;

B. All buildings, structures, improvements, furnishings, fixtures and equipment (real, personal and mixed) now or hereafter attached to or used or adapted for use in the operation of the Property and all replacements and additions thereto, all heating and incinerating apparatus and equipment, boilers, engines, motors, dynamos, generating equipment, pumps, piping and plumbing fixtures, cooling, ventilating, sprinkling and fire-extinguishing apparatus, gas and electric fixtures, elevators, escalators, partitions, shrubbery and plants; and including also all interest of Trustor in any of such items hereafter at any time acquired under a conditional sales contract, chattel mortgage or other title-retaining or security instrument, all of which property described in this paragraph shall be deemed part of the realty and not severable wholly or in part without material injury to the freehold;

C. All and singular the lands, tenements, privileges, water, water rights, water stock, mineral, oil and gas rights, hereditaments and appurtenances belonging or in anywise appertaining to the Property, all reversions, remainders, rents, royalties, issues and profits thereof and all estate, rights, title, claim, interest and demand whatsoever of Trustor either at law or in equity of, in and to the Property, whether now held or hereafter acquired; and

D. All proceeds of, supporting obligations for, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

TO HAVE AND TO HOLD forever as security for the faithful performance of the Note secured hereby (described below) and as security for the faithful performance of each and all of the covenants, agreements, terms and conditions of this Deed of Trust, the Loan Documents (as defined below) and in all other instruments executed in connection herewith. This Deed of Trust also constitutes a security agreement with respect to, and for such purposes Trustor hereby grants to Beneficiary a security interest in, all items of the Property in which such an interest may be created under the Uniform Commercial Code, as adopted in Washington.

**1. Obligations Secured.**

(a) This Deed of Trust is made for the purpose of securing the performance of each agreement of Trustor herein, in that certain Promissory Note Secured by Deed of Trust (the "Note") of even date herewith executed by Trustor and payable to Beneficiary or order in the original principal sum of ONE MILLION THREE HUNDRED THOUSAND AND 00/100 DOLLARS (\$1,300,000.00) and in all other instruments and agreements executed in connection with or to secure the Note, the debts evidenced by all renewals, extensions, modifications, substitutions and conditions of the Note and all other obligations of Trustor to Beneficiary, its successors and assigns now existing or hereafter arising which are at any time specifically declared by Beneficiary in writing to be secured by these presents or which specifically indicate in the instruments which evidence the same that they are intended to be so secured (individually, a "Loan Document" and collectively, the "Loan Documents"); excluding, however, any hazardous waste indemnifications and completion and payment guarantees separate from the Note and all other documents and instruments which expressly provide to the contrary.



(b) Trustor's agreements and obligations secured by this Deed of Trust shall include, without limitation, Trustor's covenants to pay all indebtedness evidenced by the Note and all interest thereon and other amounts evidenced thereby (including increases in the original principal sum as a result of the inadequacy of the monthly installments to pay the then current interest and all other forms of negative amortization) and all future advances made to Trustor by Beneficiary, its successors and assigns, under or pursuant to the terms of the Note or any other Loan Document.

(c) Without limiting the generality of the foregoing, Trustor acknowledges that the Environmental Indemnity Agreement of even date herewith in favor of Beneficiary pursuant to which Trustor has agreed, among other things, to indemnify Beneficiary from any and all losses that relate to certain Environmental Matters (as those terms are defined therein) and that arise after any transfer of the Property pursuant to foreclosure proceedings or in lieu thereof shall in no event be deemed to be a Loan Document, and that notwithstanding any other provision hereof, this Deed of Trust does not secure the payment or performance of any obligation or indebtedness of Trustor or any other parties described in such Environmental Indemnity Agreement.

2. **Trustor's Covenant of Payment.** Trustor shall pay all debts and monies secured hereby when due without setoff or deduction of any kind whatsoever.

3. **Trustor's Warranties of Title.** Trustor warrants to Beneficiary that it is the sole holder of fee simple absolute title to all of the Property, including, without limitation, all improvements comprising the Property, and that said title is marketable and free from any lien or encumbrance other than matters shown on Beneficiary's policy of title insurance issued by Trustee as of the date hereof in connection with the lien of this Deed of Trust (the "Title Policy"). Trustor further covenants and agrees (a) to keep the Property free from all liens of any kind, including, without limitation, statutory and governmental; (b) that no lien superior or junior to this Deed of Trust will be created or suffered by Trustor during the life of this Deed of Trust without Beneficiary's prior written consent; (c) that it has the right to make this Deed of Trust and the person executing this Deed of Trust on behalf of Trustor has the authority to do so; and (d) that it will forever warrant and defend Beneficiary's interest in the Property against all parties.

4. **Trustor's Right to Contest Statutory Liens.** The filing of a mechanic's or materialman's lien against the Property shall not constitute a default hereunder if and so long as (a) no defaults exist under any Loan Document; (b) within ten (10) days after filing of such lien, Trustor obtains and maintains in effect a bond issued by a surety acceptable to Beneficiary in an amount not less than the entire sum alleged to be owed to the lien claimant or such other amount as is required by the surety or by the court to obtain a court order to release said lien of record; (c) Trustor provides to Beneficiary and pays for an endorsement to Beneficiary's title insurance policy which insures the priority of this Deed of Trust over the lien being contested; (d) Trustor immediately commences its contest of such lien and continuously pursues the same in good faith and with due diligence; (e) such bond or contest stays the foreclosure of the lien; and (f) Trustor pays any judgment rendered for the lien claimant within ten (10) days thereafter.

5. **Maintenance and Inspection; Hazardous Materials.**

(a) Trustor shall maintain the buildings and other improvements now or hereafter comprising the Property in a first class, rentable condition and state of repair. Respecting the Property or the use thereof, Trustor shall (i) not commit or suffer any waste; (ii) promptly comply with all requirements of the Federal, State and Municipal authorities and all other laws, ordinances, regulations, covenants, conditions and restrictions; and (iii) pay all fees or charges of any kind in connection therewith.



(b) Trustor shall permit Beneficiary or its agents the opportunity to inspect the Property, including the interior of any structures comprising the Property, at all reasonable times. In addition, Trustor shall at its sole cost and expense provide to Beneficiary all inspection reports, studies and tests related to the Property as Beneficiary may reasonably request from time to time (including, without limitation, if requested by Beneficiary, a Phase I Environmental Report with respect to the Property and all adjacent areas and periodic updates of any inspection or test performed in connection therewith), all in form and scope reasonably satisfactory to Beneficiary.

(c) For so long as Trustor holds any interest in the Property, Trustor agrees as follows:

(i) Except for ordinary storage, use, and application in accordance with all applicable Hazardous Materials Laws (defined below) of reasonable amounts of properly labeled and properly contained solvents, cleaning materials, janitorial supplies, office supplies, or other commonly used business or household chemicals, no Hazardous Material (as hereinafter defined) shall be installed, used, generated, manufactured, treated, handled, refined, produced, processed, stored or disposed of in, on or under the Property. As used herein, the term "Hazardous Material" shall mean all hazardous or toxic materials, pollutants, effluents, contaminants, radioactive materials, flammable explosives, chemicals known to cause cancer or reproductive toxicity, emissions, wastes and all other chemicals, materials and substances, the handling, storage, release, transportation, or disposal of which is or becomes prohibited, limited or regulated by any federal, state, county, regional or local authority or which, even if not so regulated, is or becomes known to pose a hazard to the health and safety of the occupants of the Property, including, without limitation, (a) asbestos, (b) petroleum and petroleum by-products, (c) urea formaldehyde foam insulation, (d) polychlorinated biphenyls, (e) all substances now or hereafter designated as "hazardous substances," "hazardous materials" or "toxic substances" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. Section 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 *et seq.*, the Clean Air Act, 42 U.S.C. Section 7401 *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 *et seq.*, or the Resource, Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.* Washington Clean Air Act, RCW Ch. 70.94 *et seq.*, Washington Solid Waste Management-Reduction and Recycling Act, RCW Ch. 70.95 *et seq.*, Washington Clean Air Act, RCW Ch. 70.94 *et seq.*, Washington Solid Waste Management-Reduction and Recycling Act, RCW Ch. 70.95 *et seq.*, Washington Hazardous Waste Management Act, RCW Ch. 70.105 *et seq.*, Washington Hazardous Waste Fees Act, RCW Ch. 70.105A *et seq.*, Washington Model Toxics Control Act, RCW Ch. 70.105D *et seq.*, Washington Nuclear Energy and Radiation Act, RCW Ch. 70.98 *et seq.*, Puget Sound Water Quality Protection Act, RCW 90.71 *et seq.*, Washington Hazardous Waste Management Act, RCW Ch. 70.105 *et seq.*, Washington Hazardous Waste Fees Act, RCW Ch. 70.105A *et seq.*, Washington Model Toxics Control Act, RCW Ch. 70.105D *et seq.*, Washington Nuclear Energy and Radiation Act, RCW Ch. 70.98 *et seq.*, Puget Sound Water Quality Protection Act, RCW 90.71; and (f) all substances now or hereafter designated as "hazardous substances," "hazardous materials" or "toxic substances" under any other federal, state or local law or in any regulation or publication adopted or promulgated pursuant thereto (collectively, "Hazardous Materials Law").

(ii) No activity shall be undertaken on the Property which would cause (a) the Property to become a hazardous waste treatment, storage or disposal facility as such terminology is defined and classified under any Hazardous Materials Law, (b) a release or threatened release of any Hazardous Material from the Property in violation of any Hazardous



Materials Law, or (c) the discharge of any Hazardous Material into any watercourse, body of surface or subsurface water or wetland or the discharge into the atmosphere of any Hazardous Material which would require a permit under any Hazardous Materials Law and for which no such permit has been issued.

(iii) No activity shall be undertaken or permitted to be undertaken on the Property which would result in a violation under any Hazardous Materials Law.

(iv) If Trustor at any time becomes aware of (i) any Hazardous Materials on or other environmental problem or liability with respect to the Property, (ii) any failure of the Property to comply with any of the Hazardous Materials Laws, or (iii) any lien, action or notice resulting from violation of any Hazardous Materials Laws, Trustor shall immediately notify Beneficiary, and shall thereafter exercise due diligence to ascertain the scope and nature of such condition. If the condition is such that state or federal law requires the giving of notice to the governmental agencies having appropriate jurisdiction or the implementation of other preventive measures, Trustor shall promptly furnish such notice or implement such preventive measures.

(v) Trustor shall obtain and deliver to Beneficiary, within a reasonable time following completion of any action which may have been required to be taken by any appropriate governmental agency, certifications of engineers or other professionals reasonably acceptable to Beneficiary, in form and substance reasonably satisfactory to Beneficiary certifying that all necessary and required actions to clean up, remove, contain, prevent and eliminate all releases or threats of release of any Hazardous Material on or about the Property to the levels required by the appropriate governmental agencies have been taken, and that upon completion of such actions, the property is, to the knowledge of such professional, then in compliance with applicable Hazardous Materials Law as then in effect and applicable to such actions.

(vi) Trustor shall indemnify and hold Beneficiary harmless from and against any and all claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings and costs and expenses (including attorneys' fees and disbursements) that result in actual cost and expense to Beneficiary prior to any transfer of the Property pursuant to foreclosure proceedings or in lieu thereof, and arise directly or indirectly from or out of, or in any way connected with (a) any activities on the Property during Trustor's ownership, possession or control of the Property that directly or indirectly result in the Property becoming contaminated with Hazardous Material; or (b) any activities on the Property during Trustor's ownership, possession or control of the Property that directly or indirectly result in the Property becoming contaminated with Hazardous Material.

6. **Construction and Repairs.** Trustor shall complete or restore promptly and in good workmanlike manner any building or improvement comprising the Property which may be constructed, damaged or destroyed and pay when due all costs incurred therefor.

7. **Alterations.** No building or other improvement now or hereafter comprising the Property shall be structurally altered, removed or demolished without the Beneficiary's prior written consent, nor shall any fixture or chattel covered by this Deed of Trust and adapted to the proper use and enjoyment of the Property be removed at any time without Beneficiary's prior written consent unless actually replaced by an article of equal suitability and value, owned by the Trustor, free and clear of any lien or security interest except such as may be approved in writing by the Beneficiary.



**8. Compliance With Laws and CC&R's.**

(a) Trustor shall comply with all statutes, laws, ordinances and regulations which now or hereafter pertain to the construction, repair, condition, use and occupancy of the Property, including, without limitation, all environmental, subdivision, zoning, building code, fire, occupational, health, safety, occupancy, and other similar or dissimilar statutes, and shall not permit any tenant, subtenant or other occupant or user with respect to the Property (collectively, herein, "Tenants") to violate the same. In the event any statute requires any correction, alteration or retrofitting of any improvements, Trustor shall promptly undertake the required repairs and restoration and complete the same with due diligence at its sole cost and expense.

(b) Trustor shall comply with all covenants, conditions and restrictions now or hereafter of record against the Property ("CC&R's") regardless of whether or not such CC&R's are prior to or subordinate to the lien of this Deed of Trust. In the event any CC&R's require any action, correction, alteration or retrofitting respecting the Property or any improvements, Trustor shall promptly undertake the same with due diligence at its sole cost and expense.

**9. Insurance**

(a) Trustor shall continuously maintain the insurance described below on the Property and all improvements and additions thereto with all premiums prepaid and provide Beneficiary original policies or originally signed evidence of such policies which list all coverages and endorsements to the policies exactly as stated in the policies and to which the originally signed Beneficiary's loss payee endorsement is attached. All such existing and future policies are hereby assigned to Beneficiary. Unless otherwise specified in the Loan Documents or unless expressly and in each instance waived by the Beneficiary in writing, said insurance shall be placed with companies licensed to do business in Washington with a Best's rating of "B" or better and indicated to be of sufficient size to qualify for Best's designation V, or for companies which are not licensed in Washington, a Best's rating of "A" or better and Best's designation V.

(b) All casualty and builder's risk policies shall (i) be written on "all risk" casualty and completed value builder's risk forms, include, to the extent Beneficiary so requires from time to time, fire and extended coverage, vandalism and malicious mischief, all perils, "soft costs," earthquake and other endorsements and coverages, and include flood protection if the Property is located within a special flood hazard area, as determined by a Zone A designation on a Flood Hazard Boundary Map or a Zone A or V designation on a Flood Insurance Rate Map, (ii) cover one hundred percent (100%) of the replacement value of the improvements comprising the Property, with agreed value and inflation protection endorsements approved by Beneficiary in writing, and (iii) name Beneficiary as a loss payee under a standard 438 BFU endorsement or a complete equivalent thereof acceptable to Beneficiary.

(c) Trustor shall carry (i) said casualty and builder's risk policies, (ii) such policies as are otherwise required from time to time by any applicable law, (iii) coverage against loss of rents for not less than one (1) year, based upon Beneficiary's approved pro forma rent schedule for the total gross annual rents on one hundred percent (100%) of the then net rentable area of the Property, plus real estate taxes, special assessments, utility charges and premiums for all other insurance required herein (whether paid by the Trustor or Tenants), (iv) public liability insurance applicable to the Property, buildings and improvements thereon, covering losses from damage to property and injury or death to persons in amounts set forth in the Loan Documents, or which Beneficiary otherwise requires from time to time, and including an extended liability endorsement if applicable to the Property and required by Beneficiary, and (v) such policies, or increased coverage or limits under existing policies, as are otherwise required by



Beneficiary from time to time. Upon Beneficiary's request, Trustor shall cause Beneficiary to be an additional insured on such liability policies and named as a loss payee under a standard 438 BFU endorsement on such rent loss policies.

(d) All insurance policies shall be evaluated and adjusted as required by Beneficiary on an annual basis. Trustor assumes all risk of insufficient coverage of risks or amounts and acknowledges that Beneficiary's requirements are not intended to indicate what Trustor should, in its exercise of its prudent and reasonable judgment, obtain. The evidence of insurance shall confirm that no insurance policy shall be canceled or modified without ten (10) days' prior written notice to Beneficiary for nonpayment of premiums and thirty (30) days' prior written notice to Beneficiary for any other cancellation. Beneficiary may, at its option, require Trustor to maintain said policies in Trustor's possession or deliver said policies to Beneficiary. If retained by Trustor, said policies shall be kept available by Trustor at all times for delivery to Beneficiary or for inspection by Beneficiary, its agents or insurers. In event of foreclosure of this Deed of Trust or other transfer of title to the Property in extinguishment of some or all of the indebtedness secured hereby, all interest of the Trustor in any insurance policies in force shall pass to the purchaser. Trustor shall provide Beneficiary with proof of premiums paid for each policy term so long as this Deed of Trust remains in effect. Trustor shall reimburse Beneficiary for any premiums paid for such insurance by the Beneficiary upon the Trustor's default in so insuring the improvements or default in assigning and delivering such policies to Beneficiary.

**10. Assignment of Insurance and Condemnation Proceeds.** Should the Property or any part or appurtenance thereof or right or interest therein be taken or damaged by reason of any public or private improvement, condemnation proceeding (including change of grade), fire, earthquake or other casualty, or in any other manner, Beneficiary or Trustee may, at its option, commence, appear in and prosecute, in its own name, any action or proceeding, or make any reasonable compromise or settlement in connection with such taking or damage, and obtain all compensation, awards or other relief therefor. All compensation, awards, damages, rights of action and proceeds, including the policies and the proceeds of any policies of insurance affecting the Property, are hereby assigned to Beneficiary, but no such assignments shall be effective to invalidate or impair any insurance policy. Trustor further assigns to Beneficiary any return premiums or other repayments upon any insurance at any time provided for the benefit of the Beneficiary and all refunds or rebates made of taxes or assessments on said Property, and Beneficiary may at any time collect said return premiums, repayments, refunds, and rebates in the event of any default by Trustor under the Note or this Deed of Trust. No insurance proceeds or condemnation awards at any time assigned to or held by Beneficiary shall be deemed to be held in trust, and Beneficiary may commingle such proceeds with its general assets and shall not be liable for the payment of any interest thereon. Trustor also agrees to execute such further assignments of any such policies, compensation, award, damages, rebates, return of premiums, repayments, rights of action and proceeds as Beneficiary or Trustee may require.

**11. Use of Insurance Proceeds.** After any damage by casualty to the Property, whether or not required to be insured against under the policies to be provided by Trustor, Trustor shall give prompt written notice thereof to Beneficiary generally describing the nature and cause of such casualty and the extent of the damage to or destruction of the Property resulting therefrom. In all events Trustor shall have the obligation to promptly repair all such damage or destruction, regardless of whether and to the extent the casualty was covered by an insurance policy or insurance proceeds are available hereunder. Beneficiary shall make available to Trustor the proceeds of any insurance policy covering the casualty and maintained by Trustor, but only in strict accordance with each of the following terms and conditions (provided, however, that in the event Beneficiary reasonably determines that the total estimated cost of fully restoring and repairing the Property to the condition existing immediately prior to the casualty does not exceed Fifty Thousand Dollars (\$50,000) and such casualty occurs more than one (1) year prior to the end of the Note term (excluding unexercised extension options), Beneficiary shall waive the imposition of the fee referred to in subparagraph (a) below):



(a) Trustor shall pay to Beneficiary, within ten (10) days after the issuance to Trustor of a statement therefor, a fee equal to one-half percent (.5%) of the total estimated repair costs, said fee being agreed to as a reasonable approximation of the increase in Beneficiary's administrative expenses which are anticipated as a result of the use of insurance proceeds as provided in this paragraph;

(b) Insurance proceeds which are directly attributable to the damage (herein the "Proceeds"), less any portion thereof which is necessary to discharge any unpaid portion of the administrative fee referred to in subparagraph (a) above, shall be released to Trustor upon and subject to satisfaction of each of the following conditions:

(i) There exists no default under the Note or this Deed of Trust at any time prior to or during the course of reconstruction;

(ii) Receipt by Beneficiary of written confirmation from all Tenants, in form and content acceptable to Beneficiary, that all existing leases and subleases of the Property will continue in full force and effect without modification (reasonable rent abatements provided therein resulting from such damage excepted) and that Trustor's proposed restorations will satisfy all of Trustor's obligations thereunder with respect to such damage;

(iii) Receipt by Beneficiary of satisfactory written evidence to the effect that proposed restorations will comply with all statutes, ordinances, regulations, restrictive covenants, reciprocal easements, leases and contracts; that its proposed plans and specifications have been approved by all required governmental agencies; and that Trustor has obtained all necessary building and other permits and approvals for such reconstruction;

(iv) Receipt by Beneficiary of proof reasonably satisfactory to Beneficiary that there exists and will continue to exist until the Property is reasonably expected to be restored and fully occupied a source of funds sufficient to pay all amounts under the Note as and when due. Such computation shall include Beneficiary's estimate of the amount necessary to pay all of Trustor's operating expenses and the sums due under the Note over the projected period of reconstruction plus a one (1) year period for releasing any vacant portion of the Property, offset by net income from Tenants remaining in occupancy during such periods, and Beneficiary may require Trustor to establish and fund a holdback account up to the amount of the difference between the anticipated debt service and operating expenses of Trustor and such net income. Said fund shall be held by Beneficiary and disbursed as and when additional leases of such vacant space which are approved by Beneficiary in writing are entered into. In the event of any default under the Note, this Deed of Trust or any reconstruction requirements, Beneficiary may, at its option, apply any portion or all of such amounts against accrued interest and the outstanding principal balance of the Note;

(v) Receipt by Beneficiary from Trustor of sufficient cash funds to cover one hundred percent (100%) of any difference between the estimated costs of completion, as certified by an architect or engineer approved by Beneficiary in writing, and the Proceeds, the amount of which difference shall be placed in a money market account with Beneficiary with said amount and any interest earned thereon to be released to Beneficiary as necessary following the exhaustion of available insurance proceeds, or at such earlier time deemed appropriate by Beneficiary. In the event of any default under the Note, this Deed of Trust or any reconstruction requirements, Beneficiary may, at its option, apply any portion or all of such amounts and interest against the accrued interest and principal sums outstanding under the Note;



(vi) Receipt by Beneficiary of a certificate executed by Trustor describing the work to be performed in connection with such restoration and a certificate by an independent architect or engineer selected or approved by Beneficiary in writing stating that the work described in the Trustor's certificate is adequate to restore the Property to substantially the same size, design, quality and condition as existed prior to the damage. The architect's or engineer's certificate shall include its estimate of all costs and expenses which will be required to complete such restorations; and

(vii) Such additional conditions as may reasonably be imposed by Beneficiary to provide assurance that the Proceeds will be used to restore the Property to substantially the same condition, to the extent possible, as existed prior to the damage or taking, including, without limitation, Beneficiary's prior written approval of all permits, plans, specifications and construction contracts for such restoration.

(c) Beneficiary shall disburse the Proceeds in increments corresponding to the percentage of completion costs then incurred for labor performed and materials furnished (which may, at Beneficiary's discretion, be subject to reasonable holdbacks required by Beneficiary, which holdbacks will not exceed ten percent (10%) of the total estimated cost of completion and which will be released upon lien-free completion of the restorations in accordance with the requirements of this Deed of Trust and the expiration of the periods within which any mechanic's or materialman's lien may be filed). Disbursements shall be conditioned upon Beneficiary's written confirmation that all of its requirements therefor have been satisfied, including its receipt of periodic inspection and completion percentage certificates executed by the project architect approved by Beneficiary in writing, payment acknowledgments and lien waivers, and such other conditions to periodic disbursements as are customarily imposed by Beneficiary in connection with its construction loans, including that there be no existing defaults or misrepresentations of Trustor and Trustor's obtaining of all title insurance endorsements, payment and performance bonds, and builder's risk policies required by Beneficiary. Trustor shall, during the progress of the work, also submit to the Beneficiary, at periodic intervals not less frequently than monthly, a certificate satisfactory to Beneficiary furnished by an architect or engineer approved by Beneficiary in writing showing the cost of labor and materials incorporated into the work during the period specified in the certificate, which period shall not include any part of the period covered by any other such certificate;

(d) After completion of the restoration and subject to the conditions herein stated, and if Trustor is not then in default under the Note or this Deed of Trust, Beneficiary shall pay to Trustor (or such other persons or entities that may have an interest therein) the undisbursed Proceeds and Trustor's deposit for any estimated restoration expense held by Beneficiary upon delivery to Beneficiary of (i) a certificate executed by Trustor showing that the work has been completed and that all bills for labor performed and materials furnished in connection therewith have been paid, (ii) lien waivers and other appropriate written acknowledgments of payment in full executed by all contractors and subcontractors performing labor on or furnished materials to the Property; (iii) a certificate executed by an architect or engineer approved by Beneficiary confirming that the Property has been restored to substantially the same size, design, quality and condition as existed immediately prior to the damage and in accordance with all applicable federal, state, local and other governmental laws and regulations; and (iv) a certificate of occupancy and other permits issued by the appropriate governmental authorities which authorize the occupancy of the Property for its intended purposes and use;

(e) If any of the conditions in subparagraph (b) above are not fulfilled within sixty (60) days after the date of the casualty, or if Trustor fails to exercise diligence in promptly commencing or continuously prosecuting the work, or if Trustor is otherwise in default under the Note, this Deed of Trust or any reconstruction requirements, Beneficiary may, at its option, apply the Proceeds and any deposits made by Trustor hereunder to the indebtedness secured hereby or complete the necessary repairs and



use the Proceeds for the payment thereof. If the Proceeds are so applied to the indebtedness and, together with any other payments due to Beneficiary under the Note and all other debts of Trustor to Beneficiary are discharged, Beneficiary shall not have the right to require the Property to be repaired under the terms of this Deed of Trust, but Beneficiary's rights under this Deed of Trust and the Loan Documents (including, without limitation Beneficiary's right to accelerate the Loan as a result of such casualty) shall not be thereby impaired or affected;

(f) Trustor shall not commence any repairs or reconstruction of any casualty until Beneficiary consents in writing thereto, which consent may be withheld by Beneficiary in its sole discretion until all of the conditions contained in this paragraph have been satisfied. All work of repairing or restoring damage shall be done in a good and workmanlike manner with materials of good quality and in conformity with all applicable laws, ordinances and regulations. Nothing herein contained shall be construed as authorizing the Trustor to subject the Property to any mechanic's, materialman's or other lien for the payment of bills for material furnished or labor performed in connection with any work contemplated by this paragraph;

(g) In any event in which the Beneficiary is not otherwise obligated to permit the insurance proceeds to be applied to the restoration of the Property as hereinabove described and, at the option of Beneficiary, the Proceeds of a loss under any policy, whether or not endorsed payable to Beneficiary, may be applied in payment of the principal, interest or any other sums secured by this Deed of Trust, whether or not then due, or to the restoration or replacement of any building on the Property, without in any way affecting the enforceability or priority of the lien of this Deed of Trust or the obligation of the Trustor or any other person for payment of the indebtedness hereby secured or the reconstruction of the damaged improvements, whether such Trustor be the then owner of said premises or not.

**12. Use of Condemnation Awards.** Should any portion of the Property be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner, Beneficiary shall be entitled to all compensation, awards and other payments or relief therefor, and may at its option commence, appear in or prosecute in its own name any action or proceeding or make any reasonable compromise or settlement in connection with such taking or damage, and Trustor agrees to pay Beneficiary's costs and reasonable attorneys' fees incurred in connection therewith. All such compensation, awards, damages, rights of actions and proceeds may be applied by Beneficiary toward the repair to any damage to the improvements on any portion of the Property not subject to the taking as and subject to the same conditions herein provided with respect to the disposition of insurance proceeds; provided, however, that if the taking results in a loss of the Property to an extent which, in the reasonable opinion of Beneficiary, renders or will render the Property not economically viable or which substantially impairs Beneficiary's security or lessens to any extent the value, marketability or intended use of the Property, Beneficiary may apply the condemnation proceeds to reduce the unpaid indebtedness secured hereby in such order as Beneficiary may determine, and without any adjustment in the amount of the installments due under the Note. Trustor agrees to execute such further assignments of condemnation proceeds as Beneficiary or Trustee may from time to time require. If so applied, any proceeds in excess of the unpaid balance of the Note and other sums due to Beneficiary shall be paid to Trustor or Trustor's assignee.

**13. Property Taxes and Assessments.** Trustor shall pay in full on or before the date such payments become delinquent all rents, taxes, assessments and encumbrances, with interest, that may now or hereafter be levied, assessed or claimed upon the Property that is the subject of this Deed of Trust or any part thereof, and upon request, exhibit to Beneficiary official receipts therefor, and shall pay all taxes imposed upon, and reasonable costs, fees and expenses of this Deed of Trust.



14. **Assessment Districts.** Trustor agrees not to consent to inclusion of the Property in any local improvement or special assessment district or to the imposition of any special or local improvement assessment against the Property without Beneficiary's prior written consent.

15. **Mortgage Taxes.** In the event of the passage after the date of this Deed of Trust of any Federal, State or Municipal law relating to the taxation of mortgages, deeds of trust, or debts secured thereby so as to tax or assess any interest of Beneficiary or any payments secured hereby (excluding Beneficiary's income or franchise taxes) Trustor shall bear and pay the full amount of such taxes, provided that, if for any reason payment by Trustor of any such new or additional taxes would be unlawful or if the payment thereof would constitute usury or render the loan or indebtedness secured hereby wholly or partially usurious under any of the terms or provisions of this Note, or the within Deed of Trust or otherwise, Beneficiary may, at its option, without demand or notice, declare the whole sum secured by this Deed of Trust, with interest thereon, to be immediately due and payable, or Beneficiary may, at its option, pay that amount or portion of such taxes as renders the loan or indebtedness secured hereby unlawful or usurious, in which event Trustor shall concurrently therewith pay the remaining lawful and nonusurious portion or balance of said taxes.

16. **Tax and Insurance Reserves.** Trustor shall at the request of the Beneficiary, pay to Beneficiary at the time of and in addition to the regular payments of principal and interest due under the terms of the Note equal monthly installments of the taxes, assessments, and insurance premiums estimated by the Beneficiary next to become due so that thirty (30) days before the due date thereof, or of the first installment thereof, Beneficiary will have on hand an amount sufficient to pay the next maturing taxes, assessments and insurance premiums. The amount of the additional payment to be made on account of taxes, assessments and insurance premiums shall be adjusted annually or more frequently as Beneficiary deems necessary and any deficit shall be immediately paid by Trustor upon request and any surplus shall be credited on the mortgage account. Subsequent payments on account of taxes, assessments and insurance premiums shall be made in accordance with the next estimate by the Beneficiary of annual requirements. To the extent permitted by applicable law, all monies paid to Beneficiary on account of taxes, assessments or insurance premiums may be commingled and invested with Beneficiary's own funds and, unless and to the extent required by law, shall not bear interest for Trustor. In the event of default of the Trustor under the Note, this Deed of Trust or other Loan Documents, Beneficiary, at its option, may apply any monies in this account to any part of the debt secured hereby. Beneficiary shall not exercise the rights granted in this paragraph so long as all of the following conditions have been met:

- (a) There have been no more than four (4) total late monthly installment payments through the loan term;
- (b) There are no other defaults under the terms of any Loan Document;
- (c) Trustor remains in title on the Property; and
- (d) Trustor pays all taxes, assessments and insurance premiums prior to delinquency.

Upon Trustor's failure to comply with any one or more of the conditions (a) through (d) above, Beneficiary may, at its option then or thereafter exercised, require Trustor to pay the additional sums described in this paragraph.



17. **Trustor's Right to Contest Taxes.** Trustor shall have the right to contest any real property tax or special assessment so long as (a) no defaults exist under the Note or this Deed of Trust; (b) Trustor makes any payment or deposit or posts any bond as and when required as a condition to pursuing such contest; (c) Trustor commences such contest prior to such tax or assessment becoming delinquent and continuously pursues the same in good faith and with due diligence; (d) such contest or any bond furnished by Trustor stays the foreclosure of any lien securing the payment of any such tax or assessment; and (e) Trustor pays any tax or assessment within ten (10) days following the date of resolution of such contest.

18. **Report of Real Estate Transaction.** Trustor has made or provided for making, or will make or provide for making, on a timely basis, any reports or returns required under Section 6045 of the Internal Revenue Code of 1986 (and any similar reports or returns required by state or local law) relating to the Property, notwithstanding the fact that the primary reporting responsibility may fall on the Beneficiary, counsel for the Beneficiary, or other party. Trustor's obligations under this paragraph will be deemed to be satisfied if proper and timely reports and returns required under this paragraph are filed by a title company or real estate broker involved in the real estate transaction relating to the Property, but nothing contained herein shall be construed to require such returns or reports to be filed by Beneficiary or counsel for Beneficiary.

19. **Leases.** With respect to all leases currently or hereafter relating to any part of the Property, Trustor agrees that:

(a) Trustor shall fully comply with all of its obligations under all existing and future leases on the Property, whether Trustor is the lessor or lessee therein, so that the same shall not become in default and shall do all that is necessary to preserve the same in force;

(b) Trustor shall not permit an assignment of any leases, or any subletting thereunder unless the right to assign or sublet is expressly reserved by the lessee under such lease;

(c) Trustor shall not create or suffer or permit to be created, subsequent to the date of the execution and delivery of this Deed of Trust, any lien or encumbrance which may be or become superior to any lease or renewal affecting said Property;

(d) Trustor shall provide parking facilities in kind, size and location sufficient to comply with all governmental zoning and regulations, and Trustor will furnish to Beneficiary satisfactory assurance of such completion thereof, and that the same were so completed in compliance with said regulations and free of liens; and

(e) Beneficiary and its successors and assigns (including any purchaser at a foreclosure or trustee's sale) shall have the right, at its option, to recognize and continue in effect any leasehold interest which is junior or subordinated to this Deed of Trust following any foreclosure or trustee's sale.

20. **Assignment of Leases.** Trustor does hereby unconditionally and absolutely assign, transfer and set over unto Beneficiary, as further security for the indebtedness and covenants secured hereby, all rentals and deposits which may be received or contracted for under any existing or future leases of the Property encumbered hereby or any portion thereof, in accordance with the separate Assignment of Leases and Rents executed concurrently herewith.



**21. Security Agreement.**

(a) Creation of Security Interest. Trustor hereby grants to Beneficiary, pursuant to the Uniform Commercial Code as adopted in Washington, a security interest in all articles of personal property and any additions to, substitutions for, changes in or replacements of the whole or any part thereof (the "Personal Property") attached to, erected upon, situated in or upon, forming a part of, appurtenant to, used in the construction or operation of or in connection with, or arising from the use or enjoyment of all or any portion of, or from any lease or agreement pertaining to the Property or any business conducted by Trustor at the Property (but excluding the personal property of tenants held for storage on the Property, unless Trustor or any guarantor of the Note has or has acquired any ownership, leasehold, security or other interest therein) including, without limitation, the personal property described on Exhibit "B" attached hereto.

(b) Warranties and Representations of Trustor. Trustor warrants and represents that:

(i) At the time of granting the security interest described herein, Trustor has, or upon acquisition will have, good and marketable title to all of the Personal Property, and, no other person, entity or government has or purports to have or upon acquisition will have any right, title, encumbrance or adverse claim or lien in or to any of the Personal Property.

(ii) Except for any financing statement in favor of Beneficiary, no financing statement covering the Personal Property or any portion thereof will be on file in any public office and Trustor agrees not to authorize the filing of any such additional financing statement in favor of any person or entity other than Beneficiary as long as any portion of the indebtedness evidenced by the Note remains unpaid.

(iii) Trustor will not sell, assign, transfer or otherwise hypothecate or grant a security interest in and to any portion of the Personal Property.

(iv) Trustor will, at its own expense, appear in and defend any and all actions and proceedings which purport to affect title to the Personal Property or any part thereof or affect the security interest of Beneficiary therein.

(v) Trustor authorizes Beneficiary to file one or more financing statements and such other documents as Beneficiary may from time to time require to perfect and continue the perfection of Beneficiary's security interest in any part of the Property. Trustor shall pay all fees and costs that Beneficiary may incur in filing such documents in public offices and in obtaining such record searches as Beneficiary may reasonably require. Trustor shall cooperate with Beneficiary in obtaining control of any portion of the Property that consists of "Deposit Accounts," "Investment Property," "Letter-of-credit rights," and "Electronic Chattel Paper," as such terms are defined in the Uniform Commercial Code as adopted in Washington. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall not be construed as in any way derogating from or impairing the declaration and the stated intention of the parties hereto that the Property and all components thereof are, to the maximum extent possible, real property or otherwise impair the rights or obligations of the parties under this Deed of Trust.



(c) **Covenants and Agreements of Trustor.** Trustor agrees that:

(i) Any replacements, renewals or additional personal property hereafter acquired by Trustor or placed on the Property, including the interest of Trustor in property purchased on conditional sale or subject to a purchase money security interest or lien shall immediately become additional Personal Property subject to this Deed of Trust. Upon demand of Beneficiary, Trustor, in order to further confirm the same, will execute a new or amended security agreement and hereby authorizes the filing of any additional or supplemental financing statements necessary to perfect Beneficiary's interest therein. Whenever necessary, Trustor will use its best efforts to procure from any conditional vendor or holder of a purchase money lien its consent to the security interest hereby created or a waiver of any provision of any conditional sale or purchase money lien prohibiting a subsequent security interest.

(ii) The Personal Property or any part thereof (including renewals, replacements and other after acquired property) will not be removed from the Property without the prior written consent of Beneficiary, which consent shall not be unreasonably withheld, provided that obsolete and worn out articles may be removed concurrently with the installation of a replacement therefor of at least equal economic value and of equal usefulness in the operation of the Property and provided that Beneficiary continues to have a first lien security interest in such replacement article.

(iii) Trustor will keep the Personal Property in good condition and repair and permit no waste thereof and will permit Beneficiary from time to time to inspect the same and will replace any worn out or obsolete property with property satisfactory to Beneficiary.

(iv) Trustor will insure the Personal Property, with Beneficiary as Loss Payee, against such hazards and in such form and in such amounts with such companies as Beneficiary may reasonably require, and will deliver the policies or appropriate certificates to Beneficiary.

(v) Trustor agrees to pay when due all taxes, assessments, charges, liens or encumbrances now or hereafter affecting the Personal Property or affecting the Property.

(vi) The Personal Property will not be used for any unlawful purpose or in any way which will void any insurance required by this Deed of Trust.

**22. Impairment of Security.** Trustor shall not, without first obtaining the Beneficiary's written consent, assign any of the rents or profits of the Property or change the general nature of the use of the Property or initiate or acquiesce in any zoning reclassification, or do, or suffer to be done, any act or thing which would impair the security for said debt or the Beneficiary's lien upon the Property or the rents thereof. Trustor shall not, without the written consent of Beneficiary, (a) initiate or support any zoning reclassification of the Property, seek any variance under existing zoning ordinances applicable to the Property or use or permit the use of the Property in a manner which would result in such use becoming a non-conforming use under applicable zoning ordinances; (b) modify, amend or supplement any easement, reservation, restriction, covenant, condition or encumbrance pertaining to the Property; (c) impose or consent to any restrictive covenant or encumbrance upon the Property, execute or file any subdivision or parcel map affecting the Property or consent to the annexation of the Property to any municipality; or (d) permit or suffer the Property to be used by the public or any person in such manner as might make possible a claim of adverse usage or possession or of any implied dedication or easement.



**23. Defense of Suits.** Trustor shall appear in and defend any suit, action or proceeding that might affect the value, priority or enforceability of this security instrument or the security itself or the rights and powers of Beneficiary or Trustee, including any suits relating to damage to property or death or personal injuries, whether or not Trustor is ultimately found liable for any negligence or other wrongful conduct or inaction. Trustor, following mutual negotiations with Beneficiary, has waived and does hereby waive any immunity to such liability to Beneficiary under any Industrial insurance or similar statute to the extent such immunity would impair Beneficiary's rights against Trustor. Should Beneficiary elect also to appear in or defend any such action or proceeding or be made a party to such by reason of this Deed of Trust, or elect to prosecute such action as appears necessary to preserve said value, the Trustor will at all times indemnify from and, on demand reimburse Beneficiary and Trustee for, any and all loss, damage, expense or cost, including cost of evidence of title and attorneys' fees, arising out of or incurred in connection with any such suit, action or proceeding, and any appeal or petition for review thereof, and the sum of such expenditures shall be secured by this Deed of Trust with interest as provided in the Note secured hereby and shall be due and payable on demand. Trustor shall pay costs of suit, cost of evidence of title and a reasonable attorneys' fee in any proceeding or suit brought by Beneficiary to foreclose this Deed of Trust and in any appeal therefrom or petition for review thereof. The indemnity contained herein shall survive execution and delivery of this Deed of Trust, repayment of the Note and performance of Trustor's obligations under the Note and this Deed of Trust.

**24. Assignments and Transfers.** Trustor acknowledges that Beneficiary has relied upon the financial statements, credit history, identity of controlling persons or entities, business and real property managerial expertise and other factors personal to Trustor and its constituent partners, members, shareholders and trustees, as the case may be, in making the loan secured hereby. Therefore, as a principal inducement to Beneficiary to make this loan, and with the knowledge that Beneficiary will materially rely upon this paragraph in so doing, Trustor acknowledges that, unless Trustor has obtained Beneficiary's prior written approval for such transfer in accordance with Section 11 of the Note, it shall be a material default hereunder and under the Note if, whether voluntarily or involuntarily, Trustor conveys, transfers, trades, sells, assigns or leases for more than one (1) year(s) (inclusive of any extension options) (i) any interest in the Property or any portion thereof including a transfer as a result of Trustor's dissolution or death or (ii) any ownership interest in Trustor or the constituent entities thereof, including, without limitation, (A) a transfer as a result of the dissolution or death of the holder of such constituent interest, (B) the transfer by way of distribution, dissolution or otherwise of any interest in all or any portion of the Property, including transfers of all or portions of the Property to the partners of Trustor, if Trustor is a partnership, to the members of Trustor, if Trustor is a limited liability company, or to the shareholders of Trustor if Trustor is a corporation, or (C) a transfer of any ownership interest in Trustor or the constituent entities thereof, by the holder of such ownership interest to any other person or entity (all of which events are individually and collectively referred to as a "Transfer"). Upon such a default, the outstanding balance of the Note and all other sums then due to Beneficiary by Trustor hereunder or under any other Loan Document may, at Beneficiary's sole option and absolute discretion, then be declared immediately due and payable. Any conveyance by real estate purchase contract or transfer by foreclosure or other forced sale or forfeiture shall all be deemed Transfers for the purposes of this Paragraph 24. Any sums which are accelerated as a result of this Paragraph 24 shall bear the same prepayment premium, if any, as provided in the Note for amounts which are voluntarily paid to Beneficiary in advance of their originally scheduled due dates.

**25. Further Encumbrances.** Trustor acknowledges that Beneficiary has relied upon the Property not being subject to additional liens or encumbrances for reasons which include, but are not limited to, the possibility of competing claims or the promotion of plans disadvantageous to Beneficiary



in bankruptcy; the risks to Beneficiary in a junior lienholder's bankruptcy; questions which involve the priority of future advances, the priority of futures leases of the Property, the marshaling of Trustor's assets and the Beneficiary's rights to determine the application of condemnation awards and insurance proceeds; the impairment of the Beneficiary's option to accept a deed in lieu of foreclosure; the increased difficulty of reaching agreements for loan workouts or to the actions to be taken by trustees, receivers, liquidators and fiduciaries; and Beneficiary's requirements of Trustor's preservation of its equity in the Property and the absence of debt which could increase the likelihood of Trustor's inability to perform its obligations when due. Therefore, as a principal inducement to Beneficiary to make this loan and with the knowledge that Beneficiary will materially rely upon this paragraph in so doing, Trustor acknowledges that it shall be a material default hereunder and under the Note if Trustor encumbers the Property with any lien other than the lien of this Deed of Trust. Upon such a default, the outstanding balance of the Note and all other sums then due to Beneficiary under any documents executed in connection therewith may, at Beneficiary's sole option and absolute discretion, be declared immediately due and payable if any interest in the Property or the improvements thereto, or any part thereof, are voluntarily or involuntarily encumbered. Without limiting the generality of the foregoing, no mortgages, deeds of trust or other forms of security interests prior or subordinate to the security interests of Beneficiary shall encumber any real or personal property which is the subject of any lien or security interest granted to Beneficiary. An encumbrance or hypothecation of stock or partnership or other constituent interest in Trustor, a sale with leaseback, a transfer by lease with a purchase option or other preferential right to purchase the Property and a conveyance by real estate purchase contract shall all be deemed encumbrances for the purposes of this Paragraph 25. Any sums which are accelerated as a result of this Paragraph 25 shall bear the same prepayment premium as provided in the Note for amounts which are voluntarily paid to Beneficiary in advance of their originally scheduled due dates.

**26. Conditions to Further Encumbrances.** If Beneficiary elects, at its sole and absolute discretion, or is required by any contract or law to consent to any further encumbrance, it may condition such consent upon all of the following:

- (a) There be no then existing defaults under any Loan Document when such subordinate financing is to be approved by Beneficiary or is recorded;
- (b) The continuing maintenance of Beneficiary's required debt service ratio, when adding the payment amounts of the further encumbrance to the payment amounts of the Note;
- (c) The written approval of any existing or proposed participant or assignee of the Note;
- (d) Beneficiary's receipt of an endorsement to Beneficiary title policy which insures the priority of Beneficiary's future advances over the subordinate loan security, the premium for which shall be paid by Trustor; and
- (e) The written agreement executed by the subordinate lender in favor of Beneficiary to the effect that:
  - (i) The subordinate lien is junior to all security for the Note, including any extensions or modifications thereof and future advances pursuant to the Loan Documents or such security;
  - (ii) Any default under any of the subordinate loan documents shall constitute a default under the Note;
  - (iii) The secondary financing shall not permit a deferral or accrual of interest;



(iv) It has not been granted any option or right of first refusal or other preferential right to purchase the Property;

(v) It shall give Beneficiary copies of all notices of default relating to any remedy of the subordinate loan documents, and shall permit Beneficiary a reasonable opportunity, without obligation, to cure such defaults, and that any sum so expended by Beneficiary shall be added to the principal of the Note, be repayable upon demand, bear interest at the Default Rate specified in the Note from the date of advance to and including the date of collection, and be secured by this Deed of Trust and Beneficiary's other security with priority over the subordinate financing;

(vi) No foreclosure, trustee's sale, or deed in lieu of either shall be effective to terminate any occupancy or tenancy of the Property without the prior written consent of Beneficiary, and that nondisturbance and attornment agreements have been executed with the lessees which so provide;

(vii) The provisions in Beneficiary's loan security regarding the application of loan proceeds, insurance proceeds, condemnation awards, and all income, rents, and profits shall be controlling over the provisions of the subordinate loan documents;

(viii) It waives all rights, legal and equitable, that it may have to require the marshaling of assets or to require the sale of assets in a particular order; and

(ix) It shall cause any successor or assignee of the subordinate loan documents to be bound by the same conditions and restrictions.

**27. Default.** Subject to any grace periods or cure rights provided in the Note, Trustor shall be in default under this Deed of Trust in any of the following circumstances:

(a) if default shall be made (i) in the payment of any installment of principal or interest precisely when due under the Note; (ii) in the repayment in full of principal under the Note on or before the Maturity Date or Acceleration Date thereunder, (iii) in the payment when due of taxes, assessments, insurance premiums or any lien or charge upon the Property; (iv) in the payment of any other charge or sum when due under the terms of the Note or any of the Loan Documents; or (v) under any of the Loan Documents;

(b) if any building or structure on the Property shall be removed or demolished or threatened with demolition, unless such building or structure is replaced in compliance with law by a building or structure of substantially similar suitability and value, and free and clear of any lien or security interest except such as may be approved in writing by Beneficiary;

(c) if Trustor shall fail to perform any covenant or observe any condition contained in the Note, this Deed of Trust, or any other Loan Document, or Trustor breaches any representation, warranty, covenant, term or condition of the Note, this Deed of Trust or any other Loan Document;

(d) if Trustor fails to deposit with Beneficiary any funds as and when required under the Loan Documents;



(e) If there is a breach of any warranty or any material inaccuracy of any representation of Trustor contained in the Note, this Deed of Trust or any other Loan Document; or should any representation, document, exhibit, statement, certificate, or schedule furnished to Beneficiary by Trustor contain any untrue or misleading statement of a material fact or fail to state any material fact necessary to make the statement of facts contained therein not misleading, or should the same thereafter become untrue or misleading in any material respect;

(f) if there is any failure to perform any obligation which is secured by any lien against or interest in the Property, rights or interests encumbered by this Deed of Trust, regardless of whether such lien or interest is prior or subordinate to this Deed of Trust, and which default or failure to perform is not cured within any applicable grace period or which in any manner threatens the lien of this Deed of Trust;

(g) If any of the following shall occur with respect to the Property, Trustor, any general partner or shareholder of Trustor, any guarantor of the Note or any owner of the Property:

- (i) the appointment of a receiver, liquidator, or trustee;
- (ii) the filing of any voluntary or involuntary petition for bankruptcy or reorganization;
- (iii) if any such person be unable, or admit in writing an inability, to pay its debts when due;
- (iv) the dissolution, termination of existence, insolvency or business failure of any such person;
- (v) any assignment for the benefit of creditors;
- (vi) the making or suffering of a fraudulent transfer under applicable federal or state law;
- (vii) the concealment of any of its property in fraud of creditors;
- (viii) the making or suffering of a preference within the meaning of the federal bankruptcy law; or
- (ix) the imposition of a lien through legal proceedings upon any of the Property which is not contested in the manner permitted by this Deed of Trust;

(h) if there is any material default by Trustor under any lease affecting the Property, or any modification, surrender, cancellation or termination of any lease with a term of more than one (1) year (inclusive of any extension options) without Beneficiary's prior written consent;

(i) If there is any material adverse change, including, without limitation, actual or threatened removal, demolition, or other impairment, of the Property or any improvements thereon;



(j) if there exists any impending: (i) condemnation; (ii) rezoning; or (iii) modification or enactment of any ordinances or regulations, any of which could materially affect any existing or contemplated improvements on the Property or the use thereof; or

(k) if there is any Transfer (as defined in Paragraph 24 of this Deed of Trust) or further encumbrance of all or any portion of or interest in the Property in prohibition of the provisions of Paragraphs 24 and 25 of this Deed of Trust;

**28. Rights and Remedies on Default.** Upon the occurrence of any default under this Deed of Trust and at any time thereafter, and subject to Paragraph 9 of the Note with respect to applicable cure periods, Trustee or Beneficiary may exercise any one or more of the following rights and remedies:

(a) Loan Document Remedies. Beneficiary may exercise any right or remedy provided for in the Note or any other Loan Document.

(b) Acceleration. Beneficiary may declare the Note and all other sums secured by this Deed of Trust immediately due and payable.

(c) Foreclosure Rights. Beneficiary may declare all sums secured hereby immediately due and payable either by commencing an action to foreclose this Deed of Trust as a mortgage, or by the delivery to Trustee of a written declaration of default and demand for sale and of written notice of default and of election to cause the Property to be sold, which notice Trustee shall cause to be delivered in a time and manner compliant with all requirements of Washington law in case of foreclosure by exercise of the power of sale herein. Should Beneficiary elect to foreclose by exercise of the power of sale herein, Beneficiary shall also deposit with Trustee such receipts and evidence of expenditures made and secured hereby as Trustee may require, and notice of sale having been given as then required by law and after lapse of such time as may then be required by law after the issuance of a notice of default and the recording of a notice of trustee's sale, Trustee, without demand on Trustor, shall sell the Property at the time and place of sale fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder upon any terms and conditions specified by Beneficiary and permitted by applicable law. Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed or deeds conveying the Property, or any portion thereof, so sold, but without any covenant or warranty, express or implied. The recitals in such deed or deeds of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at such sale. The power of sale under this Deed of Trust shall not be exhausted by any one or more sales (or attempts to sell) as to all or any portion of the Property remaining unsold, but shall continue unimpaired until all of the Property has been sold by exercise of the power of sale herein contained and all indebtedness of Trustor to Beneficiary under this Deed of Trust, the Note or any other Loan Document has been paid in full.

(d) Right to Rescind. Beneficiary, from time to time before Trustee's sale, may rescind any such notice of breach of default and of election to cause the Property to be sold by executing and delivering to Trustee a written notice of such rescission, which notice, when recorded, shall also constitute a cancellation of any prior declaration of default and demand for sale. The exercise by Beneficiary of such right of rescission shall not constitute a waiver of any breach or default then existing or subsequently occurring, or impair the right of Beneficiary to execute and deliver to Trustee, as above provided, other declarations of default and demand for sale. The exercise by Beneficiary of such right of



rescission shall not constitute a waiver of any breach or default then existing or subsequently occurring, or impair the right of Beneficiary to execute and deliver to Trustee, as above provided, other declarations of default and demand for sale, and notices of breach or default, and of election to cause the Property to be sold to satisfy the obligations hereof, nor otherwise affect any provision, agreement, covenant or condition of the Note and for of this Deed of Trust or any of the rights, obligations or remedies of the parties hereunder.

(e) UCC Remedies. With respect to all or any part of the Property that is personal or intangible, Beneficiary shall have all the rights and remedies of a secured party under the Uniform Commercial Code. Upon request, Trustor shall assemble and make such collateral available to Beneficiary at a place to be designated by Beneficiary which is reasonably convenient to both parties. Upon repossession, Beneficiary may propose to retain the collateral in partial satisfaction of the Note or sell the collateral at public or private sale in accordance with the Uniform Commercial Code as adopted in the state where the Property is situated or any other applicable statute. Such sale may be held as a part of, distinctive from or without a trustee's sale or foreclosure of the real property secured by this Deed of Trust. If any notification of disposition of all or any portion of the collateral is required by law, such notification shall be deemed reasonable and properly given if mailed at least ten (10) days prior to such disposition. If Beneficiary disposes of all or any part of the collateral after default, the proceeds of disposition shall be applied in the following order:

(i) To the reasonable expenses of retaking, holding, preparing for sale, selling the collateral, and the like;

(ii) To the reasonable attorneys' fees and legal expenses incurred by Beneficiary; and

(iii) To the satisfaction of the indebtedness secured by this Deed of Trust.

(f) Remedial Advances. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, without obligation so to do and without demand upon Trustor and without releasing Trustor from any obligation hereof, may (i) make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; (ii) commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; (iii) pay, purchase, contest, or compromise any encumbrance, charge, lien, tax or assessment, or the premium for any policy of insurance required herein; and in exercising any such power, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title, employ counsel and pay such counsel's fees. Beneficiary shall be subrogated to the rights and lien interests of any person who is paid by Beneficiary pursuant to the terms of this paragraph. Trustor shall repay immediately on written notice to Trustor all sums expended or advanced hereunder by or on behalf of Beneficiary, with interest from the date of such advance or expenditure at the Default Rate provided for in the Note, and the repayment thereof shall be secured hereby.

(g) Summary Possession. Beneficiary may, at its option, and in person or by agent, employee or court-appointed receiver, enter upon and take possession of the Property and continue any improvement, repair or renovation thereof at Trustor's expense and to lease the same or any part thereof, making such alterations as it determines necessary, and may terminate in any lawful manner any lease



of the Property, exercising with respect thereto any right or option available to the Trustor. The entering upon and taking possession of the Property, the collection of rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the Property, and the application or release thereof shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(h) Beneficiary's Enforcement of Contracts. Beneficiary shall have the right to enforce Trustor's rights under all architect contracts and construction contracts and to bring an action for the breach thereof in the name of Beneficiary or, at Beneficiary's option, in the name of Trustor, in the event any architect or contractor breaches their respective contracts, regardless of whether Beneficiary has acquired or retained any interest in the Property. Trustor hereby irrevocably appoints Beneficiary as its attorney-in-fact for the purposes of the foregoing, which power shall be durable and coupled with an interest. Beneficiary does not assume and shall not be obligated to perform any of Trustor's obligations under said contracts nor shall Beneficiary be required to enforce such contracts or bring action for the breach thereof; provided, however, any performance of the respective contracts specifically required in writing by the Beneficiary, following any default by Trustor under the Note or the contracts, and which is properly and timely undertaken by the contractor or architect, shall be paid for by the Beneficiary in accordance with the terms and conditions of the contracts. Such payments shall be deemed additions to the Note principal and shall bear interest at the rate provided in the Note from the date of advance to and including the date of full payment, and shall be secured as a part of said Note principal and interest by any deed of trust, collateral assignment of leases and rents, security agreement, guaranty and other documents granted to secure the Note.

(i) Appointment of Receiver. Beneficiary shall have the right to have a receiver appointed to take possession of any or all of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, to collect the income from the Property and apply the proceeds, over and above cost of the receivership, against the accrued interest and principal under the Note. The receiver may serve without bond if permitted by law. Beneficiary's right to the appointment of a receiver shall exist whether or not apparent value of the Property exceeds the indebtedness secured hereby by a substantial amount. Employment by Beneficiary shall not disqualify a person from serving as a receiver. Upon taking possession of all or any part of the Property, the receiver or Beneficiary may: (i) use, operate, manage, control and conduct business on the Property and make expenditures for all maintenance and improvements as in its judgment are necessary and proper; (ii) collect the income from the Property and apply such sums to the expenses of use, operation and management; and (iii) at Beneficiary's option, complete any construction in progress on the Property, and in connection therewith, pay bills, borrow funds, employ contractors and make any changes in plans or specifications as Beneficiary deems necessary or appropriate. If the revenues produced by the Property are insufficient to pay expenses, the receiver may borrow, from Beneficiary or otherwise, such sums as the receiver or Beneficiary may deem reasonably necessary for the purposes stated in this paragraph. The amounts borrowed or advanced shall be payable by Trustor on demand and bear interest from the date of expenditure until repaid at the interest rate then applicable under the Note. Such sums shall become a part of the debt secured by this Deed of Trust.

(j) Specific Enforcement. Beneficiary may specifically enforce any covenant in this Deed of Trust or the Trustor's compliance with its warranties herein and may restrain and enjoin the breach or prospective breach of any such covenant or the noncompliance with any condition, and Trustor waives any requirement of the posting of any bond in connection therewith.



(k) General Creditors' Remedies. Beneficiary shall have such other rights and remedies as are available under any statute or at law or in equity generally, and the delineation of certain remedies in this Deed of Trust shall not be deemed in limitation thereof.

(l) Guaranties. If Beneficiary at any time holds additional security for any obligations secured hereby, it may enforce the terms thereof or otherwise realize upon the sale, at its option, either before or concurrently herewith or after a sale is made hereunder, and may apply the proceeds upon the indebtedness secured hereby without affecting the status of or waiving any right to exhaust all or any other security, including the security hereunder or thereunder, and without waiving any breach or default or any right or power whether exercised hereunder or contained herein or in any such other security.

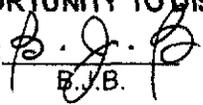
29. Application of Sale Proceeds. After deducting all costs and expenses of Trustee and of this Trust, including cost of evidence of title and reasonably attorneys' fees in connection with sale, as above set forth, Trustee shall apply the proceeds of sale to payment of all sums expended under the terms hereof, not then repaid, with accrued interest at the Default Rate provided for in the Note; 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.

30. Remedies Cumulative. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or in any other Loan Document or by law provided or permitted, and each such remedy shall be cumulative and in addition to every other such remedy. Every power or remedy given by this instrument to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies.

31. No Waiver. No waiver of any default or failure or delay to exercise any right or remedy by Beneficiary shall operate as a waiver of any other default or of the same default in the future or a preclusion of any right or remedy with respect to the same or any other occurrence.

32. Marshaling. In case of a sale under this Deed of Trust, the said Property, real, personal and mixed, may be sold in one or more parcels. Neither Trustee nor Beneficiary shall be required to marshal Trustor's assets.

33. Jury Trial Waiver. TRUSTOR HEREBY WAVES ALL RIGHTS TRUSTOR MAY HAVE TO A JURY TRIAL IN ANY ACTION RELATED TO THE LOAN DOCUMENTS. TRUSTOR HAS READ AND UNDERSTANDS THE FOREGOING AND ACKNOWLEDGES THAT IT IS GIVING UP ITS RIGHT TO A JURY TRIAL. TRUSTOR ACKNOWLEDGES THAT NO PERSON ACTING ON BEHALF OF THE BENEFICIARY HAS MADE ANY REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. TRUSTOR HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

Initial:   
B.J.B.

34. Trustor's Indemnification. Trustor agrees to indemnify and hold harmless Trustee and Beneficiary from and against any and all losses, penalties, claims, charges, costs and expenses.



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(including attorneys' fees and disbursements) which may be imposed on, incurred or paid by or asserted against Trustee and or Beneficiary by reason or on account of, or in connection with: (a) any default by Trustor hereunder or under any other Loan Document; (b) Trustee's and Beneficiary's good faith and commercially reasonable exercise of any of their rights and remedies or the performance of any of their duties hereunder or under the other documents to which Trustor is a party; (c) the construction, reconstruction or alteration of the Property; (d) any negligence, willful misconduct or failure to act of Trustor, or any negligence, willful misconduct or failure to act of any lessee of the Property, or any of their respective agents, contractors, subcontractors, servants, employees, licensees or invitees; (e) any accident, injury, death or damage to any person or property occurring in, on or about the Property or any street, drive, sidewalk, curb or passageway adjacent thereto; or (f) any failure of Trustor to file any tax reports or returns referred to in this Deed of Trust. The indemnity provided under subsection (f) of this section shall also extend to counsel for the Beneficiary. Any amount payable to Trustee, Beneficiary or counsel for Beneficiary under this paragraph shall be due and payable within ten (10) days after demand therefor and receipt by Trustor of a statement from Trustee, Beneficiary and/or counsel for Beneficiary setting forth in reasonable detail the amount claimed and the basis therefor, and such amounts shall bear interest at the Default Rate (as defined in the Note) from and after the date such amounts are paid by Beneficiary, Trustee or counsel for Beneficiary until paid in full by Trustor. Trustor's obligations under this paragraph shall not be affected by the absence or unavailability of insurance covering the same or by the failure or refusal by any insurance carrier to perform any obligation on its part under any such policy of insurance. If any claim, action or proceeding is made or brought against Trustor or Beneficiary which is subject to the indemnity set forth in this paragraph, Trustor shall resist or defend against the same, if necessary in the name of Trustee and Beneficiary, by attorneys for Trustor's insurance carrier (if the same is covered by insurance) or otherwise by attorneys approved by Beneficiary. Notwithstanding the foregoing, Trustee and Beneficiary, in their reasonable discretion, may engage their own attorneys to resist or defend, or assist therein, and Trustor shall pay or, on demand, shall reimburse Trustee and Beneficiary for the payment of the reasonable fees and disbursements of said attorneys. The indemnity provided for herein shall survive execution and delivery of this Deed of Trust, repayment of the loan secured by this Deed of Trust and foreclosure, whether by power of sale pursuant to this Deed of Trust or by deed of trust in lieu of foreclosure.

**35. Attorneys' Fees; Costs.** Trustor agrees to reimburse Beneficiary for all costs, expenses and reasonable attorneys' fees that Beneficiary incurs in connection with the realization or enforcement of any obligation or remedy contained in the Note or any other Loan Document, with or without litigation, including without limitation any costs, expenses and fees incurred: (a) on appeal; (b) in any arbitration or mediation; (c) in any action contesting or seeking to restrain, enjoin, stay, or postpone the exercise of any remedy in which Beneficiary prevails; (d) in any bankruptcy, probate, receivership or other proceeding involving Trustor; and (e) in connection with all negotiations, documentation, and other actions relating to any work-out, compromise, settlement or satisfaction of the debt secured hereby or settlement of any debt secured by this Deed of Trust or any other Loan Document. All such costs, expenses and fees shall be due and payable upon demand, shall bear interest from the date incurred through the date of collection at the highest rate stated in the Note (including the Default Rate), and shall be secured by this Deed of Trust.

**36. Acceptance by Trustee.** Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law.



37. **Successor Trustee.** Trustee may resign by an instrument in writing addressed to Beneficiary, or Trustee may be removed at any time with or without cause by an instrument in writing executed by Beneficiary and duly recorded. In case of the death, resignation, removal or disqualification of Trustee or if for any reason Beneficiary shall deem it desirable to appoint a substitute or successor trustee to act instead of Trustee herein named or any substitute or successor trustee, then Beneficiary shall have the right and is hereby authorized and empowered to appoint a successor trustee, or a substitute trustee, without other formality than appointment and designation in writing executed and acknowledged by Beneficiary and the recordation of such writing in the office where this Deed of Trust is recorded, and the authority hereby conferred shall extend to the appointment of other successor and substitute trustees successively. Such appointment and designation by Beneficiary shall be full evidence of the right and authority to make the same and of all facts herein recited. If such appointment is executed on behalf of Beneficiary by an officer of Beneficiary, such appointments shall be conclusively presumed to be executed with authority and shall be valid and sufficient without proof of any action by the Trustee or any officer of Beneficiary. Upon the making of such appointment and designation, all of the estate and title of Trustee in the Property shall vest in the named successor or substitute trustee and it shall thereupon succeed to and shall hold, possess and execute all the rights, powers, privileges, immunities and duties herein conferred upon Trustee; but, nevertheless, upon the written request of Beneficiary or of the successor substitute trustee, the Trustee shall execute and deliver an instrument transferring to such successor or substitute trustee all of the estate and title in the Property of the trustee so ceasing to act, together with all the rights, powers, privileges, immunities and duties herein conferred upon Trustee, and shall duly assign, transfer and deliver any of the properties and moneys held by the Trustee hereunder to said successor or substitute trustee. All references herein to Trustee shall be deemed to refer to any trustee (including any successor or substitute, appointed and designated, as herein provided) from time to time acting hereunder. Trustor hereby ratifies and confirms any and all acts which Trustee herein named or its successor or successors, substitute or substitutes, in this Deed of Trust, shall do lawfully by virtue hereof.

38. **Reconveyances.** Upon Trustee's receipt of a written request from Beneficiary stating that all sums secured hereby have been paid, together with the original counterparts of this Deed of Trust and the Note for cancellation and delivery to the Trustor and the Trustee's fees, Trustee shall reconvey, without warranty, the Property then held hereunder. The recitals in any reconveyance executed under this Deed of Trust of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

39. **Releases.** No Property shall be released from the lien of this Deed of Trust and no person shall be released from liability under the Note or any other obligation secured hereby except in the manner herein specified. Without affecting the liability of any other person for the payment of any obligation herein mentioned (including Trustor should it convey said Property) and without affecting the lien or priority hereof upon any Property not released, Beneficiary may, without notice, release any person so liable, extend the maturity or modify the terms of any such obligation, grant other indulgences, make future or other advances to Trustor or any one or more parties comprising Trustor, assign or in any manner transfer this Deed of Trust, release or reconvey or cause to be released or reconveyed at any time all or part of the said Property described herein, take or release any other security or make compositions or other arrangements with debtors. Beneficiary may also accept additional security, either concurrently herewith or thereafter, and sell the same or otherwise realize thereon, either before, concurrently with, or after sale hereunder.



40. **Beneficiary's Consents.** At any time, upon written request of Trustor and payment of Beneficiary's fees, and without affecting the liability of any person for the payment of the indebtedness, Beneficiary may: (a) consent to the making of any map or plat of said Property; (c) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this Deed of Trust or the lien or charge thereof; and (d) reconvey, without warranty, all or any part of the Property.

41. **Usury Disclaimer.** It is the specific intent of Trustor and Beneficiary that the Note bear a lawful rate of interest. If any court of competent jurisdiction should determine that the interest rates (and any other charges or costs set forth in the Note which may be deemed to be an interest charge) therein provided for exceed that which is statutorily permitted for the type of transaction evidenced thereby, the interest rates (and other applicable charges or costs) shall be reduced to the highest rate permitted by applicable law, with any excess interest theretofore collected being applied against the Note principal or, if such principal has been fully repaid, returned to Trustor on demand. In addition to the foregoing, Trustor acknowledges that (i) Beneficiary is a national banking association organized under the laws of the United States of America and the loan evidenced hereby is intended to be exempt from the provisions of applicable usury law; and (ii) the proceeds of the Loan shall be used by Trustor exclusively for commercial and business purposes, and that none of the proceeds of the Loan shall be used by Trustor for personal, family, or household purposes.

42. **Further Assurances.** Trustor, from time to time, within fifteen (15) days after request by Beneficiary, shall execute, acknowledge and deliver to Beneficiary, such chattel mortgages, security agreements or other similar security instruments, in form and substance reasonably satisfactory to Beneficiary, covering all property of any kind whatsoever owned by Trustor or in which Trustor has any interest which, in the reasonable opinion of Beneficiary, is essential to the operation of the Property covered by this Deed of Trust. Trustor shall further, from time to time, within fifteen (15) days after request by Beneficiary, execute, acknowledge and deliver any renewal, affidavit, certificate, continuation statement or other document as Beneficiary may reasonably request in order to perfect, preserve, continue, extend or maintain the security interest under, and the priority of, this Deed of Trust and the priority of such chattel mortgage or other security instrument. Trustor further agrees to pay to Beneficiary on demand all reasonable costs and expenses incurred by Beneficiary in connection with the preparation, execution, recording, filing and refiling of any such instrument or document, including the charges for examining title and any required title endorsements. However, neither a request so made by Beneficiary nor the failure of Beneficiary to make such request shall be construed as a release of such Property, or any part thereof, from the conveyance of title by this Deed of Trust, it being understood and agreed that this covenant and any such chattel mortgage, security agreement or other similar security instrument delivered to Beneficiary are cumulative and given as additional security.

43. **Time of Performance.** Time is of the essence hereof in connection with all obligations of Trustor herein and in all Loan Documents.

44. **Notices.** Any notice required or permitted to be given under this Deed of Trust shall be in writing and shall be served personally, or delivered or sent by a national overnight delivery company or by United States mail, registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:



**If to Trustor:** VALLEY VIEW III, L.L.C., A WASHINGTON LIMITED LIABILITY COMPANY

30205 33RD AVENUE SW  
FEDERAL WAY, WA 98023

Fax No. \_\_\_\_\_

**If to Beneficiary:** UNION BANK OF CALIFORNIA, N.A.,  
A National Banking Association  
145 S. State College Blvd., Suite 600  
Brea, CA 92821  
Attention: Loan Servicing Dept.  
Fax No. (714) 990-7319

Any such notices shall be deemed delivered upon delivery or refusal to accept delivery as indicated in writing by the person attempting to make personal service, on the U.S. Postal Service return receipt or by similar written advice from the overnight delivery company; provided, however, that if any such notice shall also be sent by electronic transmission device, such as telex, telecopy, fax machine or computer, such notice shall be deemed given at the time and on the date of machine transmittal if the sending party receives a written send verification on its machine and promptly sends a duplicate notice by personal service, mail or overnight delivery in the manner described above. Any party to whom notices are to be sent pursuant to this Deed of Trust may from time to time change its address for future communication hereunder by giving notice in the manner prescribed herein to all other parties hereto, provided that the address change shall not be effective until five (5) business days after giving of notice of the address change.

**45. Beneficiary's Right to Inspect.** Beneficiary and its agents and representatives may enter upon the Property at all reasonable times to attend to Beneficiary's interest and to inspect the Property.

**46. Reports and Statements.** Upon Beneficiary's request, Trustor shall deliver to Beneficiary, within ninety (90) days after the end of each of Trustor's fiscal years, and within twenty (20) days after Beneficiary's request in the event of any default by Trustor, reasonably detailed operating statements and occupancy reports in form satisfactory to Beneficiary covering the Property, both certified as correct by Trustor. At Beneficiary's option, such operating statements shall be prepared by an independent certified public accountant at Trustor's expense. If Beneficiary so requests, such statements shall specify, in addition to other information requested by Beneficiary, the rents and profits received from the Property, the disbursements made for such period and the name of each Tenant and a summary of the terms of its lease or rental arrangement. Trustor shall permit Beneficiary or its representative to examine all books and records pertaining to the Property and shall deliver to Beneficiary all financial statements, credit reports and other documents pertaining to the financial condition and obligations of Trustor or any Tenant and all rental, income and expense statements, audits and tax returns relating to the Property.

**47. Assignment by Beneficiary; Participation.** Beneficiary may assign this Deed of Trust in whole or in part to any person and may grant participation in any of its rights under this Deed of Trust, without notice and without affecting Trustor's liability under this Deed of Trust. In connection with any proposed assignment, participation or similar arrangement, Beneficiary may make available to any person all credit and financial data furnished or to be furnished to Beneficiary by Trustor or any guarantor of the



Note. Trustor agrees to provide to the person designated by Beneficiary any information as such person may reasonably require to form a decision regarding the proposed assignment, participation or other arrangement. Trustor may not assign this Deed of Trust to any person at any time, except in connection with a transaction approved in writing by Beneficiary under the terms of this Deed of Trust.

**48. Multiple Trustors.** If Trustor is comprised of more than one (1) person or entity, then the term "Trustor" shall refer to all such persons or entities collectively and to each such person or entity individually, such that all obligations, covenants, warranties, requirements, restrictions and other provisions of this Deed of Trust shall apply both collectively and individually. If Trustor is comprised of more than one (1) person or entity, then each of such persons or entities shall be jointly and severally liable for the indebtedness secured by this Deed of Trust, for the performance of Trustor's obligations under the Loan Documents and for any default on the part of any one or more of the persons or entities comprising Trustor. This Deed of Trust shall be so construed that, wherever applicable, the use of the singular number shall include the plural number, the use of the plural number shall include the singular number, the use of any gender shall be applicable to all genders, and shall likewise be so construed as applicable to and including a corporation. Any act, event or omission which is hereby defined as a default on the part of Trustor shall likewise be a default on the part of Trustor should the same exist with respect to any one or more parties comprising Trustor.

**49. Legal Relationships.** The relationship between Beneficiary and Trustor is that of lender and borrower, and no partnership, joint venture or other similar relationship shall be inferred from this Deed of Trust. Trustor shall not have the right or authority to make representations, act or incur debts or liabilities on behalf of Beneficiary. Trustor is not executing this Deed of Trust as an agent or nominee for an undisclosed principal, and no third party beneficiaries are or shall be created by the execution of this Deed of Trust, other than by the assignment by Beneficiary of this Deed of Trust.

**50. Community Property.** If Trustor includes any married person, then that married person's separate and community property interests in the Property and the community property interests of his or her spouse in the Property are encumbered by this Deed of Trust.

**51. Modification.** This Deed of Trust may be amended, modified, changed or varied only by a written agreement signed by the parties hereto. No requirement of this Deed of Trust may be waived at any time except in a writing signed by Beneficiary and any such waiver shall be effective only as to its terms and on a single occasion. Neither Beneficiary's delay or omission in exercising any right, power or remedy under this Deed of Trust upon default of Trustor nor Beneficiary's failure to insist upon strict performance of any of the covenants or agreements contained in this Deed of Trust shall be construed as a waiver of any such right, power, remedy, covenant or agreement or as an acquiescence in Trustor's breach or default. By accepting payment of any sum secured by this Deed of Trust after its due date, Beneficiary does not waive its right to require prompt payment of any other sums when due or to declare default for failure to pay.

**52. Successors.** Subject to the prohibitions against Trustor's assignments herein, this Deed of Trust shall inure to the benefit of and bind all of the parties, their successors, estates, heirs, personal representatives and assigns.

**53. Partial Invalidity.** If a court of competent jurisdiction finally determines that any provision of this Deed of Trust is invalid or unenforceable, the court's determination shall not affect the validity or enforceability of the remaining provisions of this Deed of Trust. In such event, this Deed of



Trust shall be construed as if it did not contain the particular provision that was determined to be invalid or unenforceable. No such determination shall affect any provision of this Deed of Trust to the extent that it is otherwise enforceable under the laws of any other applicable jurisdiction.

54. **Mutual Negotiation.** Beneficiary and Trustor confirm that they have mutually negotiated this Deed of Trust and that none of the terms or provisions of this Deed of Trust shall be construed against either party.

55. **Paragraph Headings.** The paragraph headings are for convenience only and in no way define, limit, extend or describe the scope or intent of this Deed of Trust or any of its provisions.

56. **Applicable Law.** This Deed of Trust and the rights of the parties hereunder shall be governed by, construed and enforced in accordance with the laws of the state where the Property is located.

57. **Entire Agreement.** This Deed of Trust and the other Loan Documents, including any exhibits or addenda, contain the entire agreement of the parties with respect to the subject matter hereof.

58. **Fixture Filing.** This Deed of Trust constitutes a fixture filing as defined in the Uniform Commercial Code as adopted in Washington, as amended or recodified from time to time. This Deed of Trust is to be recorded in the real estate records of the County in which the Property is located and covers goods which are, or are to become, fixtures.

59. **Survival of Representations and Warranties.** All of the representations and warranties contained in this Deed of Trust shall be true and correct at all times during the term of the Loan secured hereby until full repayment of such loan and performance of all obligations of Trustor under the Note and all other Loan Documents.

60. **Commercial Purposes; Non-Agricultural Property.** The loan and other obligations secured hereby were obtained by Trustor and will continue to be used for commercial or business purposes, and not for personal, family or household purposes. The Property is not used principally for agricultural or farming purposes.

61. **Exhibits/Riders.** The following exhibits and/or riders, which are attached hereto, are hereby incorporated by this reference as if set forth in full in the body of this Note:

Exhibit A (Legal Description)  
Exhibit B (Personal Property Description)  
Rider Regarding Operating and Financial Statements Covenants



RCW 19.36.140 NOTICE. ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust on the date first written above.

TRUSTOR:

VALLEY VIEW III, L.L.C., A WASHINGTON LIMITED LIABILITY COMPANY

BY: Barbara J. Bradshaw  
BARBARA J. BRADSHAW, MANAGING MEMBER

UNOFFICIAL DOCUMENT



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**ACKNOWLEDGEMENT**

State OREGON }

County of MULTNOMATH }

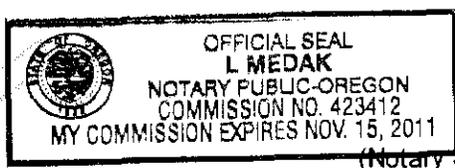
On 12-2-2008 before me, L. MEDAK, A NOTARY PUBLIC  
personally appeared, BARBARA J. BRADSHAW AS MANAGER

who proved to me on the basis of satisfactory evidence to be the person (s) whose name (s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her their authorized capacity (ies), and that by his/her/their signature (s) on the instrument the person (s), or the entity upon behalf of which the person (s) acted, executed the instrument

I certify under PENALTY OF PERJURY under the laws of the State of OREGON that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature [Handwritten Signature]



(Notary Seal)

State of \_\_\_\_\_ }

County of \_\_\_\_\_ }

On \_\_\_\_\_ before me, \_\_\_\_\_, A NOTARY PUBLIC  
personally appeared,

who proved to me on the basis of satisfactory evidence to be the person (s) whose name (s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her their authorized capacity (ies), and that by his/her/their signature (s) on the instrument the person (s), or the entity upon behalf of which the person (s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

{Notary Seal}



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EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF SEDRO WOOLLEY, COUNTY OF SKAGIT, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:

That portion of Lot 2 of Survey filed May 18, 1993 in Volume 14 of Surveys, page 91, under Auditor's File No. 9305180067, records of Skagit County, Washington and being more particularly described as that portion of the following described Parcels A, B, C, D and E lying Northerly of the following described Line 1 and Westerly of the following described Line 2:

Line 1:

Beginning at the South Quarter corner of Section 13, Township 35 North, Range 4 East of the Willamette Meridian;

Thence South 86°48'05" East, 663.03 feet along the South line of said section to the intersection of the West line of the East 15 feet of the West Half of the West Half of the Southeast Quarter of said Section 13;

Thence North 01°36'05" West, 898.97 feet along said West line to the true point of beginning of herein described line:

Thence South 68°47'42" West, 82.82 feet;

Thence South 68°22'00" West, 92.11 feet;

Thence South 42°22'57" West, 86.38 feet;

Thence South 31°53'43" West, 132.61 feet;

Thence South 62°30'11" West, 78.52 feet;

Thence South 69°39'19" West, 105.95 feet;

Thence South 66°34'56" West, 77.29 feet;

Thence South 75°26'13" West, 87.32 feet;

Thence South 79°27'16" West, 83.74 feet;

Thence South 78°05'16" West, 67.94 feet;

Thence South 44°17'08" West, 57.52 feet to a line 100 feet, as measured at right angles, from the centerline of the Northern Pacific Railway Company's main track as referred to in the Deed, recorded February 10, 1967, under Auditor's File No. 694612, records of Skagit County, Washington, and the terminus of herein described centerline.



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## EXHIBIT "A"

## LINE 2:

Beginning at the South quarter corner of Section 13, Township 35 North, Range 4 East of the Willamette Meridian;

Thence South 86°48'05" East, 663.03 feet along the South line of said section to the intersection of the West line of the East 15 feet of the West Half of the West Half of the Southeast Quarter of said Section 13;

Thence North 1°36'05" West, 898.97 feet along said West line;

Thence South 68°47'42" West 82.82 feet;

Thence South 68°22'00" West, 92.11 feet;

Thence South 42°22'57" West, 86.38 feet;

Thence South 31°53'43" West, 26.40 feet to the true point of beginning of this line description;

Thence North 30°30'15" West, 235.63 feet;

Thence North 01°36'05" West, 622.02 feet to a point of curvature;

Thence Northwesterly along the arc of a curve to the left having a radius of 61.50 feet, through a central angle of 38°52'11" and an arc length of 41.72 feet to a point of reverse curvature;

Thence Northerly and Northeasterly along the arc of a curve to the right having a radius of 25.00 feet through a central angle of 84°46'06" and an arc length of 36.98 feet to a point of compound curvature;

Thence Northeasterly along the arc of a curve to the right having a radius of 58.56 feet through a central angle of 00°50'32" and an arc length of 0.86 feet;

Thence North 01°36'05" West to the South line of that portion conveyed to the City of Sedro-Woolley by deed recorded March 19, 1991, under Auditor's File No. 9103190038, records of Skagit County, Washington and the terminus of this described line.

## PARCEL A:

That portion of the West Half of the West Half of the Southeast Quarter of Section 13, Township 35 North, Range 4 East of the Willamette Meridian, lying Southeasterly of that certain 100 foot strip of land conveyed to Seattle Lake Shore and Eastern Railway by Deed dated April 24, 1890, and recorded May 12, 1890, in Volume 9 of Deeds, page 756;

EXCEPT the East 15 feet thereof for County road.

Situated in Skagit County, Washington

## PARCEL B:

That portion of the East Half of the East Half of the Southwest Quarter of Section 13, Township 35 North, Range 4 East of the Willamette Meridian, lying Easterly of the Easterly line of that certain 25 foot strip of land conveyed to the Northern Pacific Railway Company by Deed dated May 27, 1913 and recorded June 3, 1913, under Auditor's File No. 96920, in Volume 92 of Deeds, page 192.

Situated in Skagit County, Washington



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EXHIBIT "A"

PARCEL C:

That portion of that certain 100 foot strip of land conveyed to the Seattle Lake Shore and Eastern Railway Company by Deed dated April 24, 1890 and recorded May 12, 1890, in Volume 9 of Deeds, page 756, lying within the boundaries of the West Half of the West Half of the Southeast Quarter of Section 13, Township 35 North, Range 4 East of the Willamette Meridian;

EXCEPT that portion, if any, lying within the right of way of the as built and existing County road commonly known as the Sam Sapp Road;

AND EXCEPT mineral rights as reserved by the Northern Pacific Railway Company by deed recorded under Auditor's File No. 69412, records of Skagit County, Washington.

Situated in Skagit County, Washington

PARCEL D:

That portion of that certain 100 foot strip of land conveyed to the Seattle Lake Shore and Eastern Railway Company by deed dated January 2, 1890 and recorded January 20, 1890, in Volume 10 of Deeds, page 28, lying within the boundaries of the East Half of the East Half of the Southwest Quarter of Section 13, Township 35 North, Range 4 East of the Willamette Meridian;

EXCEPT that portion thereof lying within a 100 feet, as measured at right angles, from the centerline of Northern Pacific Railway Company main tract as referred to in deed recorded February 10, 1967, under Auditor's File No. 694612, records of Skagit County, Washington;

AND EXCEPT that portion, if any, lying within the right of way of the as built and existing County road commonly known as the Sam Sapp Road;

AND ALSO EXCEPT mineral rights as reserved by the Northern Pacific Railway Company by deed recorded under Auditor's File No. 69412, records of Skagit County, Washington.

Situated in Skagit County, Washington



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EXHIBIT "A"

PARCEL E:

That certain 25 foot strip of land in the East Half of the East Half of the Southwest Quarter of Section 13, Township 35 North, Range 4 East of the Willamette Meridian, as conveyed to the Northern Pacific Railway Company by deed dated May 27, 1913 and recorded June 3, 1913, under Auditor's File No. 96920, records of Skagit County, Washington, in Volume 92 of Deeds, page 192;

EXCEPT that portion thereof lying within 100 feet, measured at right angles, from the centerline of Northern Pacific Railway Company main tract as referred to in deed recorded February 10, 1967, under Auditor's File No. 694612, records of Skagit County, Washington;

AND EXCEPT that portion, if any, lying within the right of way of the as built and existing county road commonly known as the Sam Sapp Road;

AND ALSO EXCEPT mineral rights as reserved by the Northern Pacific Railway Company by deed recorded under Auditor's File No. 69412, records of Skagit County, Washington.

EXCEPTING from Parcels A through E, inclusive those portions conveyed to the City of Sedro-Woolley by deed recorded March 19, 1991, under Auditor's File No. 9103190038, records of Skagit County, Washington;

TOGETHER WITH a non-exclusive easement for ingress, egress and utilities as conveyed by instrument recorded June 23, 1997, under Auditor's File No. 9706230093, records of Skagit County, Washington.

Situated in Skagit County, Washington

A.P.N.: P105620

COMMONLY KNOWN AS: 700 NORTH REED STREET  
SEDRO WOOLLEY, WA 98284

Initial:

*B.J.B.*  
B.J.B.



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**EXHIBIT "B"**

**DESCRIPTION OF PERSONAL PROPERTY**

All equipment, machinery, fixtures, goods, inventory, accounts, deposit accounts, money, general intangibles, contract rights, documents, documents of title, instruments and chattel paper, as those terms are defined in the Uniform Commercial Code as adopted in Washington, and all other personal property of every kind and description, whether now existing or hereafter acquired, now or at any time hereafter attached to, erected upon, situated in or upon, forming a part of, appurtenant to, used in the construction or operation of or in connection with, or arising from the use or enjoyment of all or any portion of, or from any lease or agreement pertaining to the Property owned by Trustor (but excluding the personal property of any tenants of the Property, unless Trustor has acquired an interest therein) including, without limitation:

All income, rents, royalties, revenue, issues, profits, proceeds and other benefits from any and all of the Property;

All deposits made with or other security given to governmental entities or utility companies by Trustor with respect to the Property and the Improvements thereon, and all advance payments of insurance premiums made by Trustor with respect thereto and all claims or demands relating to such deposits, other security and/or such insurance;

All fixtures now or hereafter affixed to the Property, including all buildings, structures and improvements of every kind and description now or hereafter erected or placed thereon and any and all machinery, motors, elevators, boilers, equipment (including, without limitation, all equipment for the generation or distribution of air, water, heat, electricity, light, fuel or refrigeration or for ventilating or air conditioning purposes or for sanitary or drainage purposes or for the removal of dust, refuse or garbage), partitions, appliances, furniture, furnishings, building service equipment, building materials, supplies, ranges, refrigerators, cabinets, laundry equipment, hotel, kitchen and restaurant equipment, computers and software, radios, televisions, awnings, window shades, Venetian blinds, drapes and drapery rods and brackets, screens, carpeting and other floor coverings, lobby furnishings, games and recreational and swimming pool equipment, elevators, cleaning and sprinkler systems, fire extinguishing apparatus and equipment, incinerators and other property of every kind and description now or hereafter placed, attached, affixed or installed in such buildings, structures, or improvements (all of such fixtures being referred to hereinafter as the "Improvements");

All damages, royalties and revenue of every kind, nature and description whatsoever that Trustor may be entitled to receive, either before or after any default hereunder, from any person or entity owning or having or hereafter acquiring a right to the oil, gas or mineral rights and reservations of the Property;

All proceeds and claims arising on account of any damages to or taking of the Property or the Improvements thereon or any part thereof, and all causes of action and recoveries for any loss or diminution in the value of the Property or the Improvements;

All licenses (including, but not limited to, any operating licenses or similar licenses), contracts, management contracts or agreements, franchise agreements, permits, authorities or certificates required or used in connection with the ownership of, or the operation of maintenance of the Improvements or any Business;



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**EXHIBIT "B"**

All present and future accounts, general intangibles, chattel paper, contract rights, deposit accounts, instruments and documents as those terms are defined in the Uniform Commercial Code, now or hereafter relating or arising with respect to the Property and for the use thereof or any improvements thereto, including, without limitation: (i) all rights to the payment of money, including escrow proceeds arising out of the sale or other disposition of all or any portion of the Property; (ii) all plans, specifications and drawings relating to the development of the Property and/or any construction thereon; (iii) all use permits, occupancy permits, development agreements, construction and building permits and all other permits and approvals required by any governmental or quasi-governmental authority in connection with the development, construction, use, occupancy or operation of the Property; (iv) any and all agreements relating to the development, construction, use, occupancy and for operation of the Property between Trustor and any contractor, subcontractor, project manager or supervisor, architect, engineer, laborer or supplier of materials; (v) all lease or rental agreements; (vi) all names under which the Property is now or hereafter known and all rights to carry on business under any such names or any variant thereof; (vii) all goodwill relating to the Property and for the development, construction, use, occupancy or operation thereof; (viii) all insurance proceeds and condemnation awards arising out of or incidental to the ownership, development, construction, use, occupancy or operation of the Property; (ix) all reserves, deferred payments, deposits, refunds, cost savings, bonds, insurance policies and payments of any kind relating to the Property; (x) all loan commitments issued to debtor in connection with any sale or financing of the Property; and (xi) all supplements, modifications and amendments to the foregoing.

All water rights appurtenant to the Property together with all pumping plants, pipes, flumes and ditches, all rights to the use of water as well as the rights in ditches for irrigation of the Property, all water stock relating to the Property, shares of stock or other evidence of ownership of any part of the Property that is owned by Trustor in common with others, and all documents of membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Property;

All plans and specifications prepared for entitlement or development of the Property or construction of the Improvements and all studies, data and drawings relating thereto; and also all contracts and agreements of Trustor relating to the aforesaid plans and specifications or to the aforesaid studies, data and drawings, or to the entitlement or development of the Property or construction of the Improvements; and

All sales agreements, deposit receipts, escrow agreements and other ancillary documents and agreements entered into with respect to the sale to any purchasers of any part of the Property or of any buildings or structures on the Property, together with all deposits and other proceeds of the sale thereof.

All landscaping, trees and other plants and crops growing on the Property, all crops harvested and all net sale proceeds from crops harvested, packed and sold, all maintenance buildings and agricultural equipment located on the Property, and any and all other property now or hereafter located on or at the Property and used in connection with any farming operations conducted upon the Property.



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EXHIBIT "B"

To the extent not already included within the foregoing categories, all inventory, accounts receivable, furniture, fixtures, equipment and other personal property of or related to or used in the operation of any Business.

All replacements, repairs and substitutions of, and accessions and additions to, any of the foregoing.

All proceeds of any of the foregoing, including, without limitation, proceeds of any voluntary or involuntary disposition or claim respecting any thereof (pursuant to judgment, condemnation award or otherwise) and all goods, documents, instruments, general intangibles, chattel paper and accounts, wherever located, acquired with cash proceeds of any of the foregoing or proceeds thereof.

Initial: B.J.B.  
B.J.B.



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**RIDER TO DEED OF TRUST, SECURITY AGREEMENT,  
ASSIGNMENT OF RENTS AND FIXTURE FILING**

**OPERATING AND FINANCIAL STATEMENTS COVENANTS**

THIS OPERATING AND FINANCIAL STATEMENTS COVENANTS ("Rider") is attached to and made a part of that certain Deed of Trust, Security Agreement, Assignment of Rents and Fixture Filing dated NOVEMBER 28, 2008 (the "Deed of Trust") executed as "Trustor" by VALLEY VIEW III, L.L.C., A WASHINGTON LIMITED LIABILITY COMPANY in favor and for the benefit of UNION BANK OF CALIFORNIA, N.A., as "Beneficiary" encumbering, among other things, that certain property more particularly described therein commonly known as, 700 NORTH REED STREET, SEDRO WOOLLEY, WA 98284, with reference to the following facts:

**RECITALS**

A. Trustor proposes to borrow from Beneficiary a loan to be evidenced by the Note defined in Section 1 of the Deed of Trust (the "Loan"). The Loan is secured by the Deed of Trust and all other Loan Documents (as defined in Section 7 of the Note). The Deed of Trust encumbers the "Property"

B. Beneficiary has determined that the continuing financial strength of Trustor, the Property and the following persons, whether guarantors of all or part of the Loan, direct or indirect constituent owners of Trustor, or other persons, namely VALLEY VIEW III, L.L.C., A WASHINGTON LIMITED LIABILITY COMPANY and BARBARA J. BRADSHAW (collectively, the "Trustor Parties"), is a material concern in its continuing administration of the Loan.

C. As a condition precedent to its making the Loan, Beneficiary has required that this Rider, as separately initialed by Trustor, be attached to and be a part of the Deed of Trust.

NOW, THEREFORE, in order to induce Beneficiary to make the Loan, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Trustor agrees as follows:

1. Delivery of Operating and Financial Statements and Rent Rolls. Trustor shall deliver or cause to be delivered to Beneficiary, within thirty (30) days after the Rider Effective Date (as defined below), within one hundred twenty (120) days after the end of the calendar year in which the Rider Effective Date occurs, and within one hundred twenty (120) days after the end of each subsequent calendar year that ends before the Loan is repaid in full, the following items, each in form and substance satisfactory to Beneficiary:

(a) A detailed, itemized, cash-basis operating statement setting forth each item of operating income and operating expense for the Property during such portion of the immediately preceding calendar year that the Property was owned by Trustor and any additional information concerning the Property that Beneficiary may request.

(b) A detailed current, certified rent roll indicating each tenant's name, unit number, expiration date, monthly rental and other payment obligations and any outstanding delinquencies, and any other information requested by Beneficiary.



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(c) True and complete financial statements of Trustor and of each Trustor Party for the immediately preceding calendar year, including a balance sheet and income statement, all in reasonable detail and certified by the applicable person as accurately reflecting its financial condition as of the date of such financial statements.

(d) A true and complete copy of the Federal Income Tax Returns (including all Schedules and Attachments) of Trustor and of each Trustor Party for the immediately preceding calendar year; provided, however, that such copies of any return shall not be required earlier than concurrently with the filing thereof.

The "Rider Effective Date" shall be the earlier of (i) the date Beneficiary first gives Trustor notice that it has elected to make the provisions of this Rider effective; or (ii) the occurrence of any breach, failure or noncompliance on the part of Trustor or the Property under the Deed of Trust or any other Loan Document, notwithstanding that all such matters may subsequently be cured.

2. Financial Statement Charge. In the event any item described in Section 1 above is not duly and timely received by Beneficiary, Trustor shall pay to Beneficiary immediately upon demand a late charge (collectively, the "Financial Statement Charge") in an amount equal to the sum of (i) one-quarter of one percent (0.25%) of the maximum permitted principal balance of the Loan; plus (ii) the product of twenty percent (20%) of the amount of (i) above, multiplied by the number of months after the date Beneficiary notifies Trustor that such item was not timely received in full compliance with Section 1 above until the date such item is actually received by Beneficiary in full compliance therewith. Trustor hereby acknowledges that the actual damage Beneficiary shall sustain as a result of Trustor's failure to duly and timely submit such items is extremely difficult to estimate and that the Financial Statement Charge represents a reasonable approximation of the same. The Financial Statement Charge shall be assessed for and due and payable with each such item to which it applies without demand. The imposition or collection of a Financial Statement Charge shall in no event be in lieu of any other remedy of Beneficiary and a failure to collect the same shall not constitute a waiver of Beneficiary's right to require a Financial Statement Charge with respect to any prior or subsequent required item.

3. Authorization To Perform Ongoing Credit Review. Trustor authorizes Beneficiary to, at any time and for any reason, order a consumer credit report and obtain any other credit-related information related to Trustor including, without limitation, payment histories related to past and current mortgage obligations.

IN WITNESS WHEREOF, this Rider has been duly initialed by the Trustor as part of the Deed of Trust.

**TRUSTOR'S INITIALS**

Initial: B. J. B.  
B. J. B.



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