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200904200163
Skagit County Auditor

4/20/2009 Page 1 of 7 3:27PM

Donald W. Jordan, Esq.
Porter, Wright, Morris & Arthur LLP
41 South High Street
Columbus, OH 43215

CHICAGO TITLE CO.

620000730

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DEED OF TRUST MODIFICATION AGREEMENT

Grantor: SeaWend, Ltd., an Ohio limited liability company,
dba SeaWend Ltd., L.L.C.

Name of Grantee (Beneficiary): The Huntington National Bank, a national banking
association

Name of Trustee: Chicago Title Insurance Company

Legal Description "Tract C" per Volume 14 of Plats, Pages 126 and
127

Assessor's Tax Parcel ID Number: 4532-000-003-0006

**Recording Information For Original
Deed of Trust:** Instrument No. 200304160107

**DEED OF TRUST
MODIFICATION AGREEMENT**

THIS DEED OF TRUST MODIFICATION AGREEMENT (this "Agreement") is made as of November 19, 2008, by and between SEAWEND, LTD., an Ohio limited liability company, dba SeaWend Ltd., L.L.C. ("Grantor") and THE HUNTINGTON NATIONAL BANK, a national banking association, in its capacity as collateral agent for itself and for Bank of America, N. A. and Wells Fargo Bank, N. A. (in such capacity, "Beneficiary").

Recitals

Grantor and its affiliates are indebted to The Huntington National Bank, Bank of America, N. A. and Wells Fargo Bank, N. A. (collectively, the "Banks") as evidenced by the following promissory notes of even date herewith: (i) three Term Notes aggregating the principal amount of \$67,000,000.00; and (ii) three Revolving Notes aggregating the maximum principal amount of \$10,000,000.00. The Term Notes are substitute evidence of existing term indebtedness and existing revolving indebtedness that has been converted to term indebtedness. The Revolving Notes are evidence of new revolving credit. The Term Notes and the Revolving Notes are referred to herein, collectively, as the "Notes".

The indebtedness to the Banks also is evidenced by an Amended and Restated Loan Agreement of even date herewith (the "Loan Agreement"), which supersedes a certain Loan Agreement, dated March 28, 2003, as amended.

As security for repayment of the existing indebtedness now evidenced by the Term Notes, Grantor has executed and delivered to Chicago Title Insurance Company, as Trustee, that certain Deed of Trust, Assignments of Rents, Security Agreements and Fixture Filings, recorded as Instrument No. 200304160107 in the Recorder's Office, Skagit County, Washington (the "Deed of Trust"), encumbering real property legally described on Page 1. Grantor and Beneficiary acknowledge that the Deed of Trust previously has been modified by that certain Amendatory Agreement, recorded in said office on October 3, 2006 as Document No. 200610030148, in order to increase the aggregate secured indebtedness from Seventy-Five Million Dollars (\$75,000,000.00) to Ninety Million Dollars (\$90,000,000.00).

Grantor and Beneficiary desire to modify the Deed of Trust in order to identify the current Notes and Loan Agreement that evidence the secured indebtedness and to extend the maturity date of the secured indebtedness.



Agreement

1. **Recitals.** The foregoing recitals are accurate and are made a part of this Agreement.

2. **Term Notes.** All references in the Deed of Trust to "Term Note" or "Term Notes" hereafter shall mean the Term Notes described in the first recital above.

3. **Revolving Notes.** All references in the Deed of Trust to "Revolving Note" or "Revolving Notes" hereafter shall mean the Revolving Notes described in the first recital above.

4. **Loan Agreement.** All references in the Deed of Trust to "Loan Agreement" hereafter shall mean the Loan Agreement described in the second recital above.

5. **Secured Obligations.** The definition of "Indebtedness", repayment of which is secured by the Deed of Trust, is amended and restated in its entirety as follows:

"THIS INSTRUMENT IS MADE AND INTENDED TO SECURE PAYMENT AND PERFORMANCE OF: (a) the indebtedness evidenced by Term Notes aggregating the principal amount of Sixty-Seven Million Dollars (\$67,000,000.00), dated November 19, 2008, with interest thereon, and all renewals, extensions, substitute notes and modifications thereof; (b) the indebtedness evidenced by Revolving Notes aggregating the maximum principal amount of Ten Million Dollars (\$10,000,000.00), dated November 19, 2008, with interest thereon, and all renewals, extensions, substitute notes and modifications thereof, which indebtedness may be advanced, repaid and re-advanced in partial amounts from time to time, including without limitation any sums disbursed under letters of credit issued for the account of Grantor and its affiliates and also evidenced by applications for such letters of credit; (c) all other sums with interest thereon advanced in accordance herewith or under the provisions of related loan documents to protect the security of this Instrument; (d) the Companies' other obligations to the Banks hereunder and under an Amended and Restated Loan Agreement, dated November 19, 2008; (e) all expenses incurred by the Banks incident to the collection of the indebtedness secured by this Instrument; and (f) all other indebtedness now or hereafter owing by Grantor and the other Companies to the Banks, however or whenever created, incurred, arising or evidenced, whether direct or indirect, primary or secondary, joint or several, absolute or contingent, or due or to become due, and whether from time to time reduced and thereafter increased or entirely extinguished and thereafter incurred, and any and all renewals, extensions and modifications of said indebtedness, and substitutions for said indebtedness, either in whole or in part, including but not limited to, all obligations incurred by Grantor and/or any of the other Companies under certain ISDA Swap Agreements or under any other agreement between Grantor and/or the other Companies and the Banks, or any of them, or any affiliate of the Banks, now existing or hereafter entered into, which provides for an interest rate, currency, equity, credit or commodity swap, currency, option, any combination of, or option with respect to, any of the foregoing or any similar transactions, for the purpose of hedging Grantor's and any of the other Companies' exposure to fluctuations in interest rates, exchange rates, currency, stock, portfolio or loan valuations or commodity prices (including



any such or similar agreement or transaction entered into by the Banks or any of them or any affiliate of the Banks in connection with any other agreement or transaction between the Banks or any of them or any affiliate and Grantor and/or the other Companies); all of which obligations and indebtedness of Grantor and the other Companies which this Instrument is given to secure, collectively, the 'Indebtedness'."

6. **Maturity Date.** The maturity date of the latest maturing indebtedness secured by the Deed of Trust is December 1, 2013.

7. **Loan Advances.** Paragraph 33 of the Deed of Trust is amended and restated as follows:

"This Instrument shall secure unpaid balances of loan advances which Banks are obligated to make to Grantor and/or to the other Companies, after this Instrument is delivered to the Recorder for record, pursuant to the provisions of the Notes and/or the Loan Agreement, whether made after a reduction to a zero or other balance. The maximum amount of the unpaid balance of loan advances funded under the Notes and other obligations described in the Loan Agreement, in the aggregate and exclusive of interest thereon and exclusive of advances under paragraph 8 to protect the Property or the lien of this Instrument, which may be outstanding at any time is Eighty Million Dollars (\$80,000,000.00)."

8. **Effect.** Except as specifically modified in this Agreement and in any previous modifications, the Deed of Trust continues in full force and effect as originally written and nothing in this Agreement shall be deemed to affect the priority of the lien of the Deed of Trust. Grantor covenants to timely pay and perform its obligations to Banks and warrants to Banks that it has no claims, offsets or defenses to payment of the indebtedness and performance of the other obligations evidenced by the Notes and the Loan Agreement.

9. **Non-Agricultural.** The Property which is the subject matter of the Deed of Trust being modified hereunder are not used principally for agricultural purposes.

WASHINGTON 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.

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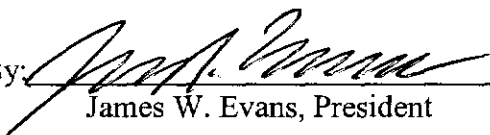


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IN WITNESS WHEREOF, Grantor and Beneficiary have executed this Agreement.

GRANTOR:

SEAWEND, LTD.,
an Ohio limited liability company dba
SeaWend Ltd., L.L.C.

By: 
James W. Evans, President

STATE OF OHIO,

COUNTY OF FRANKLIN, SS:

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

On this 21st day of January, 2009, before me personally appeared James W. Evans, known to me to be the President of SeaWend, Ltd., dba SeaWend Ltd., L.L.C., the limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.







Barbara L. Brown
Notary Public, State of Ohio
My Commission Expires 02-23-2012

(Use this space for notarial seal stamp.)



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BENEFICIARY:

THE HUNTINGTON NATIONAL BANK

By: *Bud Ward Sr Vice Pres*
Name: Bud Ward
Title: Senior Vice President

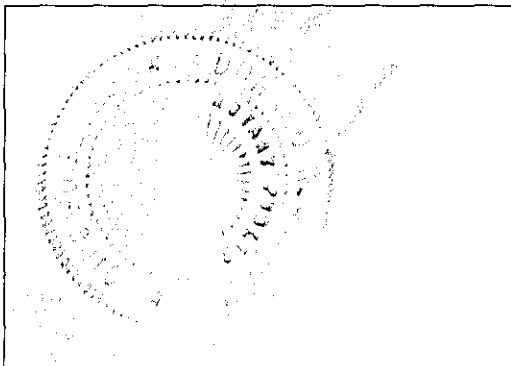
STATE OF OHIO,

COUNTY OF FRANKLIN, SS:

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

On this 23rd day of January, 2009, before me personally appeared Bud Ward, known to me to be the Senior Vice President of The Huntington National Bank, the national banking association that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said national banking association, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



Donald W. Jordan

DONALD W. JORDAN
ATTORNEY AT LAW
NOTARY PUBLIC - STATE OF OHIO
LIFETIME COMMISSION

(Use this space for notarial seal stamp.)



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Skagit County Auditor

Exhibit "A"

Legal Description

Store No. SWL-19:

Tract C, PLAT OF K-MART COMMERCIAL PARK, according to the plat thereof, recorded in Volume 14 of Plats, pages 126 and 127, records of Skagit County, Washington.

Situated in Skagit County, Washington



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