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Skagit County Auditor

10/20/2009 Page

1 of 35 9:24AM

AFTER RECORDING RETURN TO:



CT Lien Solutions

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P. O. Box 29071 20398709

Glendale, CA 91209-9071

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

**GRANTOR:** AMERICAN TOWER ASSET SUB, LLC  
**GRANTEE/TRUSTEE:** STEWART TITLE GUARANTY COMPANY  
**GRANTEE:** AMERICAN TOWER DEPOSITOR SUB, LLC

**Dated:** May 4, 2007

**Legal Description:**

5 1/2 of N 1/2 of Section 5, T35N-R8E;  
NW 1/4 of NE 1/4 of Section 31, T35N-R5E;  
**Abbreviated form:** NE 1/4 of NE 1/4 of Section 24, T34N-R3E

**Additional legal on page:** See Schedule A and Schedule B-2 attached hereto and made a part hereof

350805-1-001-0029 P 43416;  
3505311003002 Parcel # 40460;  
**Assessor's Tax Parcel ID No(s):** 34032400120104 Parcel # 22529

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

OCT 20 2009

USActive 8147418.4

Amount Paid \$  
Skagit Co. Treasurer  
By *MAM* Deputy

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

This **DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, FIXTURE FILING AND SECURITY AGREEMENT**, dated as of May 4, 2007, is made by AMERICAN TOWER ASSET SUB, LLC, a Delaware limited liability company ("**Grantor**"), whose address is c/o American Tower Corp., 116 Huntington Avenue, 11<sup>th</sup> Floor, Boston, Massachusetts 02116, Attention: Brad Singer and Ed DiSanto, to STEWART TITLE GUARANTY COMPANY, a Texas corporation ("**Trustee**"), whose address is 18000 International Boulevard, Suite 510, Sea Tac, Washington 98188, for the use and benefit of AMERICAN TOWER DEPOSITOR SUB, LLC, a Delaware limited liability company ("**Beneficiary**", which term shall be deemed to include successors and assigns), whose address is c/o American Tower Corp., 116 Huntington Avenue, 11<sup>th</sup> Floor, Boston, Massachusetts 02116, Attention: Brad Singer and Ed DiSanto. References to this "**Deed of Trust**" shall mean this instrument and any and all renewals, modifications, amendments, supplements, restatements, extensions, consolidations, substitutions, spreaders and replacements of this instrument.

Background

A. Grantor and American Tower Asset Sub II, LLC, a Delaware limited liability company ("**Other Sub**") (Grantor and Other Sub are collectively referred to herein as the "**Initial Borrower**") (the Initial Borrower, together with any other borrower which becomes a party to the Loan Agreement (hereinafter defined), collectively, the "**Borrower**") and Beneficiary have entered into that certain Loan and Security Agreement, dated as of the date hereof (as amended and restated, and as the same may be further amended, supplemented, restated or otherwise modified from time to time, the "**Loan Agreement**"). The terms of the Loan Agreement are incorporated by reference in this Deed of Trust as if the terms thereof were fully set forth herein. In the event of any conflict between the provisions of this Deed of Trust and the provisions of the Loan Agreement, the applicable provisions of the Loan Agreement shall govern and control, provided, that in the case of a provision in this Deed of Trust which is more specific and detailed than the related provision in the Loan Agreement (including by way of illustration, the section of this Deed of Trust entitled "**Leases**"), such Deed of Trust provision shall not be deemed to be in conflict with the related provision in the Loan Agreement.

Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement.

B. Grantor is the owner of (i) the fee simple estate in the parcel(s) of real property, if any, described on Schedule A attached (the "**Owned Land**"), and (ii) a leasehold estate or easement interest in the parcel(s) of real property, if any, described on Schedule B-2 attached (the "**Leased Land**"; the Owned Land and the Leased Land are sometimes referred to herein collectively as the "**Land**") pursuant to the agreement(s) described on Schedule B-1 attached hereto (as the same may be amended, supplemented or otherwise modified from time to time with the prior written consent of Beneficiary, the "**Trust Lease**"); and, other than buildings, improvements, structures and fixtures owned by lessees under Leases (as defined below), owns,



leases or otherwise has the right to use all of the buildings, improvements, structures and fixtures now or subsequently located on the Land (the "**Improvements**"; the Land and the Improvements being collectively referred to as the "**Real Estate**").

C. Pursuant to the terms and conditions of the Loan Agreement, the Beneficiary has agreed to make a loan to Initial Borrower in the principal amount of ONE BILLION SEVEN HUNDRED FIFTY MILLION AND NO/100 DOLLARS (\$1,750,000,000.00).

D. It is a condition, among others, to the obligations of the Beneficiary to make the Loan to Initial Borrower that Grantor secure Borrower obligations under the Loan Agreement and the other Loan Documents, by executing and delivering this Deed of Trust. Grantor, as a Borrower, will receive substantial direct and indirect benefit from the loan being made to Initial Borrower pursuant to the Loan Agreement.

#### Granting Clauses

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor agrees that to secure the following (collectively, the "**Obligations**"):

- (A) the due and punctual payment and performance by Borrower of all its obligations and liabilities, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of or otherwise in connection with the Loan Agreement;
- (B) the payment of all other obligations and liabilities of Borrower, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, the Loan Agreement, this Deed of Trust, any other document securing payment of the Obligations (the "**Security Documents**") and any amendments, supplements, extensions, renewals, restatements, replacements or modifications of any of the foregoing (the Loan Agreement, the Notes, this Deed of Trust and the other Security Documents and all other documents and instruments from time to time evidencing, securing or guaranteeing the payment and performance of the Obligations, as any of the same may be amended, supplemented, extended, renewed, restated, replaced or modified from time to time, are collectively referred to as the "**Loan Documents**"), in each case whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise (including, without limitation, all reasonable fees, charges and disbursements of counsel to Beneficiary or to the Beneficiary that are required to be paid by Borrower pursuant to the terms of the Loan Agreement, this Deed of Trust or any other Loan Document); and



- (C) the performance and observance of each obligation, term, covenant and condition to be performed or observed by Borrower under, in connection with or pursuant to the provisions of the Loan Documents;

GRANTOR HEREBY CONVEYS TO TRUSTEE AND HEREBY GRANTS, ASSIGNS, TRANSFERS AND SETS OVER TO TRUSTEE AND TRUSTEE'S SUCCESSORS, IN TRUST WITH POWER OF SALE FOR THE USE AND BENEFIT OF BENEFICIARY, AND GRANTS BENEFICIARY AND TRUSTEE A SECURITY INTEREST IN:

- (A) the Owned Land and all Improvements thereon;
- (B) the leasehold estate created under and by virtue of the Trust Lease, any interest in any fee, easement, easement in gross, or other greater or lesser title to the Leased Land and Improvements located thereon that Grantor may own or hereafter acquire (whether acquired pursuant to a right or option contained in the Trust Lease or otherwise) and all credits, deposits, options, privileges and rights of Grantor under the Trust Lease (including all rights of use, occupancy and enjoyment) and under any amendments, supplements, extensions, renewals, restatements, replacements and modifications thereof (including, without limitation, but subject to the limitations of Section 32(f), (i) the right to give consents, (ii) the right to receive moneys payable to Grantor, (iii) the right, if any, to renew or extend the Trust Lease for a succeeding term or terms, (iv) the right, if any, to purchase the Leased Land and Improvements located thereon and (v) the right to terminate or modify the Trust Lease); all of Grantor's claims and rights to the payment of damages arising under the Bankruptcy Code (as defined below) from any rejection of the Trust Lease by the lessor thereunder or any other party;
- (C) all right, title and interest Grantor now has or may hereafter acquire in and to the Improvements or any part thereof (whether owned in fee by Grantor or held pursuant to the Trust Lease or otherwise) and all the estate, right, title, claim or demand whatsoever of Grantor, in possession or expectancy, in and to the Real Estate or any part thereof;
- (D) all right, title and interest of Grantor in, to and under all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water and riparian rights, development rights, air rights, mineral rights and all estates, rights, titles, interests, privileges, licenses, tenements, hereditaments and appurtenances belonging, relating or appertaining to the Real Estate, and any reversions, remainders, rents, issues, profits and revenue thereof and all land lying in the bed of any street, road or avenue, in front of or adjoining the Real Estate to the center line thereof;
- (E) all of the fixtures, chattels, business machines, machinery, apparatus, equipment, furnishings, fittings and articles of personal property of every kind and nature whatsoever, and all appurtenances and additions thereto and substitutions or replacements thereof (together with, in each case, attachments, components, parts and accessories) currently owned or subsequently acquired by Grantor and now or subsequently attached to, or contained in or used or usable in any way in connection with any operation or



letting of the Real Estate, including but without limiting the generality of the foregoing, all heating, electrical, and mechanical equipment, lighting, switchboards, plumbing, ventilating, air conditioning and air-cooling apparatus, loading and unloading equipment and systems, communication systems (including satellite dishes and antennae), computers, sprinkler systems and other fire prevention and extinguishing apparatus and materials, security systems, motors, engines, machinery, pipes, pumps, tanks, conduits, appliances, fittings and fixtures of every kind and description (all of the foregoing in this paragraph (E) being referred to as the **"Equipment"**);

(F) all right, title and interest of Grantor in and to all substitutes and replacements of, and all additions and improvements to, the Real Estate and the Equipment, subsequently acquired by or released to Grantor or constructed, assembled or placed by Grantor on the Real Estate, immediately upon such acquisition, release, construction, assembling or placement, including, without limitation, any and all building materials whether stored at the Real Estate or offsite, and, in each such case, without any further mortgage, conveyance, assignment or other act by Grantor;

(G) all right, title and interest of Grantor in, to and under all leases, subleases, underlettings, concession agreements, management agreements, licenses and other agreements relating to the use or occupancy of the Real Estate or the Equipment or any part thereof, now existing or subsequently entered into by Grantor and whether written or oral and all guarantees of any of the foregoing (collectively, as any of the foregoing may be amended, restated, extended, renewed or modified from time to time, the **"Leases"**), and all rights of Grantor in respect of cash and securities deposited thereunder and the right to receive and collect the revenues, income, rents, issues and profits thereof, together with all other rents, royalties, issues, profits, revenue, income and other benefits arising from the use and enjoyment of the Trust Property (as defined below) (collectively, the **"Rents"**);

(H) all unearned premiums under insurance policies now or subsequently obtained by Grantor relating to the Real Estate or Equipment and Grantor's interest in and to all such insurance policies (including title insurance policies) and all proceeds of such insurance policies, including the right to collect and receive such proceeds, subject to the provisions relating to insurance generally set forth herein and in the Loan Agreement; and all awards and other compensation, including the interest payable thereon and the right to collect and receive the same, made to the present or any subsequent owner of the Real Estate or Equipment for the taking by eminent domain, condemnation or otherwise, of all or any part of the Real Estate or any easement or other right therein, subject to the provisions relating to such awards and compensation generally set forth herein and in the Loan Agreement;

(I) to the extent assignable, all right, title and interest of Grantor in and to (i) all contracts from time to time executed by Grantor or any manager or agent on its behalf relating to the ownership, construction, maintenance, repair, operation, occupancy, sale or financing of the Real Estate or Equipment or any part thereof and all agreements



relating to the purchase or lease of any portion of the Real Estate or any property which is adjacent or peripheral to the Real Estate, together with the right to exercise such options and all leases of Equipment, (ii) all consents, licenses, building permits, certificates of occupancy and other governmental approvals relating to construction, completion, occupancy, use or operation of the Real Estate or any part thereof and (iii) all drawings, plans, specifications and similar or related items relating to the Real Estate;

(J) any and all monies now or subsequently on deposit for the payment of real estate taxes or special assessments against the Real Estate or for the payment of premiums on insurance policies covering the foregoing property or otherwise on deposit with or held by Beneficiary as provided in this Deed of Trust; and

(K) all proceeds, both cash and noncash, of the foregoing;

(All of the foregoing property and rights and interests now owned or held or subsequently acquired by Grantor and described in the foregoing clauses (A) through (F) are collectively referred to as the "**Premises**", and those described in the foregoing clauses (A) through (K) are collectively referred to as the "**Trust Property**").

TO HAVE AND TO HOLD the Trust Property and the rights and privileges hereby granted unto Trustee, its successors in trust and assigns for the uses and purposes set forth, until the Obligations are fully paid and performed.

#### Terms and Conditions

Grantor further represents, warrants, covenants and agrees with Trustee and Beneficiary as follows:

Section 1. Warranty of Title. Grantor warrants that it has good and marketable record title in fee simple to, or a valid leasehold interest in, the Real Estate, and good title to, or a valid leasehold interest in, the rest of the Trust Property, subject only to the matters that are set forth in Schedule B of any existing title insurance policy or policies issued to Grantor to insure its fee and/or leasehold interest(s) in the Real Estate, as the case may be, and any other lien expressly permitted by subsection 4.5 and 5.15 of the Loan Agreement (the "**Permitted Exceptions**"). Grantor shall warrant, defend and preserve such title and the lien of this Deed of Trust against all claims of all persons and entities. Grantor represents and warrants that (a) it has the right to grant a lien upon the Trust Property; (b) the Trust Lease is in full force and effect and Grantor is the holder of the lessee's or tenant's interest thereunder; (c) the Trust Lease has not been amended, supplemented or otherwise modified, except as may be specifically described in Schedule B-1 attached to this Deed of Trust; (d) Grantor has paid all rents and other charges to the extent due and payable under the Trust Lease (except to the extent Grantor is contesting in good faith by appropriate proceedings any such rents and other charges in accordance with and to the extent permitted by the terms of the relevant Trust Lease), is not in default under the Trust Lease, has received no notice of default from the lessor thereunder and knows of no material default by the lessor thereunder; and (e) the granting of this Deed of Trust does not violate the terms of the Trust Lease nor is any consent of the lessor under the Trust Lease required to be



obtained in connection with the granting of this Deed of Trust unless such consent has been obtained.

Section 2. Payment of the Obligations. Grantor shall pay and perform the Obligations at the times and places and in the manner specified in the Loan Agreement and in this Deed of Trust.

Section 3. Requirements. (a) Grantor shall promptly comply with, or cause to be complied with, and conform to all present and future laws, statutes, codes, ordinances, orders, judgments, decrees, rules, regulations and requirements, and irrespective of the nature of the work to be done, of each of the United States of America, any State and any municipality, local government or other political subdivision thereof and any agency, department, bureau, board, commission or other instrumentality of any of them, now existing or subsequently created (collectively, "**Governmental Authority**") which has jurisdiction over the Trust Property and all covenants, restrictions and conditions now or later of record which may be applicable to any of the Trust Property, or to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair or reconstruction of any of the Trust Property, except to the extent that failure to comply therewith could not, in the aggregate, reasonably be expected to have a Material Adverse Effect. All present and future laws, statutes, codes, ordinances, orders, judgments, decrees, rules, regulations and requirements of every Governmental Authority applicable to Grantor or to any of the Trust Property and all covenants, restrictions, and conditions which now or later may be applicable to any of the Trust Property are collectively referred to as the "**Legal Requirements**".

(b) From and after the date of this Deed of Trust, Grantor shall not by act or omission permit any building or other improvement on any premises not subject to the lien of this Deed of Trust to rely on the Premises or any part thereof or any interest therein to fulfill any Legal Requirement, and Grantor hereby assigns to Beneficiary any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used. Grantor shall not by act or omission impair the integrity of any of the Real Estate so as to constitute an illegal subdivision or to prohibit the Premises and Improvements from being conveyed, or leased, as applicable, as one zoning or tax lot. Grantor represents that, except with respect to such portion of the Premises, if any, as is leased by Grantor pursuant to a Trust Lease and with respect to which Grantor has no purchase options or other acquisition rights, the Premises are not part of a larger tract of land owned by Grantor or its affiliates or otherwise considered as part of one zoning or tax lot, or, if they are that any authorization or variance required for the subdivision of such larger tract which a sale of the Premises would entail has been obtained from all appropriate Governmental Authorities so that the Premises and Improvements constitute one zoning or tax lot capable of being conveyed or leased as such. Any act or omission by Grantor which would result in a violation of any of the provisions of this subsection shall be void.

Section 4. Payment of Taxes and Other Impositions. (a) Promptly when due, but in any event before any delinquency occurs, Grantor shall pay and discharge all taxes of every kind and nature (including, without limitation, all real and personal property, income, franchise, withholding, transfer, gains, profits and gross receipts taxes), all charges for any easement or agreement maintained for the benefit of any of the Trust Property, all general and



special assessments, levies, permits, inspection and license fees, all water and sewer rents and charges, vault taxes, and all other public charges even if unforeseen or extraordinary, imposed upon or assessed against or which may become a lien on any of the Trust Property, or arising in respect of the occupancy, use or possession thereof, together with any penalties or interest on any of the foregoing, except to the extent any such tax, charge, assessment or other similar obligation is the obligation of the lessor under the Trust Lease (all of the foregoing are collectively referred to as the "**Impositions**"). Upon request by Beneficiary, Grantor shall deliver to Beneficiary (i) original or copies of receipted bills and cancelled checks evidencing payment of such Imposition if it is a real estate tax or other public charge and (ii) evidence acceptable to Beneficiary showing the payment of any other such Imposition. If by law any Imposition, at Grantor's option, may be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Grantor may elect to pay such Imposition in such installments and shall be responsible for the payment of such installments with interest, if any.

(b) Nothing herein shall affect any right or remedy of Trustee or Beneficiary under this Deed of Trust or otherwise, without notice or demand to Grantor, to pay any Imposition after the date such Imposition shall have become delinquent. Any sums paid by Trustee or Beneficiary in discharge of any Impositions shall be payable on demand by Grantor to Beneficiary together with interest at the Default Rate.

(c) Grantor shall have the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Imposition by appropriate legal proceedings, but such right shall not be deemed or construed in any way as relieving, modifying, or extending Grantor's covenant to pay any such Imposition at the time and in the manner provided in this Section unless (i) Grantor has given prior written notice to Beneficiary of Grantor's intent so to contest or object to an Imposition, (ii) Grantor shall demonstrate to Beneficiary's satisfaction that the legal proceedings shall operate conclusively to prevent the sale of the Trust Property, or any part thereof, to satisfy such Imposition prior to final determination of such proceedings and (iii) Grantor shall furnish a good and sufficient bond or surety as requested by and reasonably satisfactory to Beneficiary in the amount of the Impositions which are being contested plus any interest and penalty which may be imposed thereon and which could become a lien against the Real Estate or any part of the Trust Property.

Section 5. Insurance. (a) Grantor shall maintain or cause to be maintained on all of the Premises such insurance in such amounts as is required pursuant to the Loan Agreement.

(b) In the event of foreclosure of this Deed of Trust or other transfer of title to the Trust Property, all, title and interest of Grantor in and to any insurance policies then in force shall pass to the purchaser or grantee to the extent assignable.

Section 6. Restrictions on Liens and Encumbrances. Except for the lien of this Deed of Trust and the Permitted Exceptions, and except as expressly permitted under the Loan Agreement, Grantor shall not further mortgage, nor otherwise encumber the Trust Property nor create or suffer to exist any lien, charge or encumbrance on the Trust Property, or any part





thereof, whether superior or subordinate to the lien of this Deed of Trust and whether recourse or non-recourse.

Section 7. Due on Sale and Other Transfer Restrictions. Except as expressly permitted under the Loan Agreement, Grantor shall not sell, transfer, convey or assign all or any portion of, or any interest in, the Trust Property.

Section 8. Maintenance; No Alteration; Inspection; Utilities. (a) Grantor shall keep the Premises in good working order and condition, ordinary wear and tear excepted. Beneficiary and any persons authorized by Beneficiary upon notice given reasonably in advance shall have the right (subject to any restrictions thereupon which may be contained in any Lease) at any reasonable time and as often as may reasonably be desired to enter and inspect the Premises and all work done, labor performed and materials furnished in and about the Improvements and to inspect and make abstracts of all books, contracts and records of Grantor relating to the Trust Property.

(b) Grantor shall pay or cause to be paid when due all utility charges which are incurred for gas, electricity, water or sewer services furnished to the Premises and all other assessments or charges of a similar nature, whether public or private, affecting the Premises or any portion thereof, whether or not such assessments or charges are liens thereon, except to the extent any such charge, assessment or other similar obligation shall be the obligation of the lessee under any Lease or the lessor under the Trust Lease.

Section 9. Condemnation/Eminent Domain. Promptly upon obtaining knowledge of the institution of any proceedings for the condemnation of the Trust Property, or any portion thereof, Grantor will notify Beneficiary of the pendency of such proceedings.

Section 10. Leases. (a) Except as may be expressly permitted under the Loan Agreement, Grantor shall not execute an assignment or pledge of any Lease relating to all or any portion of the Trust Property other than in favor of Beneficiary.

(b) Grantor shall deliver to Beneficiary, within 15 days after a request by Beneficiary (but in no event more often than every three months), a written statement, certified by Grantor as being true, correct and complete, containing the names of all lessees and other occupants of the Trust Property, the terms of all Leases and the spaces occupied and rentals payable thereunder, and a list of all Leases which are then in default, including the nature and magnitude of the default.

Section 11. Further Assurances. To the extent permitted under applicable law, and to further assure Beneficiary's and Trustee's rights under this Deed of Trust, Grantor agrees upon demand of Beneficiary or Trustee to do any act or execute any additional documents (including, but not limited to, security agreements on any personalty included or to be included in the Trust Property and a separate assignment of each Lease in recordable form) as may be reasonably required by Beneficiary or Trustee to confirm the lien of this Deed of Trust and all other rights or benefits conferred on Beneficiary or Trustee.



Section 12. Beneficiary's Right to Perform. Upon the occurrence of an Event of Default hereunder, Beneficiary or Trustee, without waiving or releasing Grantor from any obligation or default under this Deed of Trust, may, at any time (but shall be under no obligation to) pay or perform the same, and the amount or cost thereof, with interest at the Default Rate, shall immediately be due from Grantor to Beneficiary or Trustee. To the extent that any such amounts or costs paid by Beneficiary or Trustee shall constitute payment of (i) Impositions; (ii) premiums on insurance policies covering the Premises; (iii) expenses incurred in upholding or enforcing the lien of this Deed of Trust, including, but not limited to the expenses of any litigation to prosecute or defend the rights and lien created by this Deed of Trust; (iv) costs of removal of or otherwise related to Materials of Environmental Concern or asbestos; or (v) any amount, costs or charge to which Beneficiary or Trustee becomes subrogated, upon payment, whether under recognized principles of law or equity, or under express statutory authority; then, and in each such event, such amounts or costs, together with interest thereon at the Default Rate, shall be added to the Obligations and shall be secured by this Deed of Trust and shall be a lien on the Trust Property prior to any right, title to, interest in, or claim upon the Trust Property attaching subsequent to the lien of this Deed of Trust. No payment or advance of money by Beneficiary or Trustee under this Section shall be deemed or construed to cure Grantor's default or waive any right or remedy of Beneficiary or Trustee.

Section 13. Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

- (a) an Event of Default shall occur under the Loan Agreement; or
- (b) a failure (i) to keep in force the insurance required by this Deed of Trust, or (ii) to comply with and conform to all provisions and requirements of the insurance policies and the insurers thereunder which would affect Grantor's ability to keep in force the insurance required by this Deed of Trust or to collect any proceeds therefrom, or (iii) to comply with any other material provisions of this Deed of Trust regarding insurance.

Section 14. Remedies. (a) Upon the occurrence of any Event of Default, in addition to any other rights and remedies Beneficiary may have pursuant to the Loan Documents, or as provided by law, Beneficiary shall, by notice to Borrower, declare the Loans (with accrued interest thereon) and all other amounts owing under the Loan Agreement and the other Loan Documents to be due and payable forthwith, whereupon the same shall immediately become due and payable. Except as expressly provided above in this Section, presentment, demand, protest and all other notices of any kind are hereby expressly waived. In addition, upon the occurrence of any Event of Default, Beneficiary may immediately take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Grantor and in and to the Trust Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such manner as Beneficiary may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Beneficiary:



(i) Beneficiary may, to the extent permitted by applicable law, (A) institute and maintain an action on the Loan Agreement and any other Loan Document, or (B) take such other action at law or in equity for the enforcement of this Deed of Trust or any of the Loan Documents as the law may allow. Beneficiary may proceed in any such action to final judgment and execution thereon for all sums due hereunder, together with interest thereon at the Default Rate and all costs of suit, including, without limitation, reasonable attorneys' fees and disbursements. Interest at the Default Rate shall be due on any judgment obtained by Beneficiary from the date of judgment until actual payment is made of the full amount of the judgment.

(ii) Beneficiary may personally, or by its agents, attorneys and employees and without regard to the adequacy or inadequacy of the Trust Property or any other collateral as security for the Indebtedness and Obligations enter into and upon the Trust Property and each and every part thereof and exclude Grantor and its agents and employees therefrom without liability for trespass, damage or otherwise (Grantor hereby agreeing to surrender possession of the Trust Property to Beneficiary upon demand at any such time) and use, operate, manage, maintain and control the Trust Property and every part thereof. Following such entry and taking of possession, Beneficiary shall be entitled, without limitation, (x) to lease all or any part or parts of the Trust Property for such periods of time and upon such conditions as Beneficiary may, in its discretion, deem proper, (y) to enforce, cancel or modify any Lease and (z) generally to execute, do and perform any other act, deed, matter or thing concerning the Trust Property as Beneficiary shall deem appropriate as fully as Grantor might do.

(b) Beneficiary, in any action to foreclose this Deed of Trust in a judicial procedure or in connection with the exercise of any non-judicial power of sale by Trustee, shall be entitled to the appointment of a receiver. In case of a trustee's sale or foreclosure sale, the Real Estate may be sold, at Beneficiary's election, in one parcel or in more than one parcel and Beneficiary is specifically empowered (without being required to do so, and in its sole and absolute discretion), to cause successive sales of portions of the Trust Property to be held.

(c) In the event of any breach of any of the covenants, agreements, terms or conditions contained in this Deed of Trust beyond the applicable notice and grace period, if any, Beneficiary shall be entitled to enjoin such breach and obtain specific performance of any covenant, agreement, term or condition and Beneficiary shall have the right to invoke any equitable right or remedy as though other remedies were not provided for in this Deed of Trust.

Section 15. Right of Beneficiary to Credit Sale. Upon the occurrence of any sale made under this Deed of Trust, whether made under the power of sale or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Beneficiary may bid for and acquire the Trust Property or any part thereof. In lieu of paying cash therefor, Beneficiary may make settlement for the purchase price by crediting upon the Obligations or other sums secured by this Deed of Trust the net sales price after deducting therefrom the expenses of sale and the cost of the action and any other sums which Beneficiary is authorized to deduct under this Deed of Trust. In such event, this Deed of Trust, the Loan Agreement, and documents



evidencing expenditures secured hereby may be presented to the person or persons conducting the sale in order that the amount so used or applied may be credited upon the Obligations as having been paid.

Section 16. Appointment of Receiver. If an Event of Default shall have occurred and be continuing, Beneficiary as a matter of right and without notice to Grantor, unless otherwise required by applicable law, and without regard to the adequacy or inadequacy of the Trust Property or any other collateral as security for the Obligations or the interest of Grantor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers or other manager of the Trust Property, and Grantor hereby irrevocably consents to such appointment and waives notice of any application therefor (except as may be required by law). Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided in this Deed of Trust, including, without limitation and to the extent permitted by law, the right to enter into leases of all or any part of the Trust Property, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Trust Property unless such receivership is sooner terminated.

Section 17. Extension, Release, etc. (a) Without affecting the lien or charge of this Deed of Trust upon any portion of the Trust Property not then or theretofore released as security for the full amount of the Obligations, Beneficiary may, from time to time and without notice, agree to (i) release any person liable for the indebtedness guaranteed under Loan Agreement or any other Loan Document, (ii) extend the maturity or alter any of the terms of the indebtedness guaranteed under the Loan Agreement or any other guaranty thereof, (iii) grant other indulgences, (iv) release or reconvey, or cause to be released or reconveyed at any time at Beneficiary's option any parcel, portion or all of the Trust Property, (v) take or release any other or additional security for any obligation herein mentioned, or (vi) make compositions or other arrangements with debtors in relation thereto. If at any time this Deed of Trust shall secure less than all of the principal amount of the Obligations, it is expressly agreed that any repayments of the principal amount of the Obligations shall not reduce the amount of the lien of this Deed of Trust until the lien amount shall equal the principal amount of the Obligations outstanding.

(b) No recovery of any judgment by Beneficiary and no levy of an execution under any judgment upon the Trust Property or upon any other property of Grantor shall affect the lien of this Deed of Trust or any liens, rights, powers or remedies of Beneficiary hereunder, and such liens, rights, powers and remedies shall continue unimpaired.

(c) If Beneficiary shall have the right to foreclose this Deed of Trust or to direct the Trustee to exercise its power of sale, Grantor authorizes Beneficiary at its option to foreclose the lien created by this Deed of Trust (or direct the Trustee to sell the Trust Property, as the case may be) subject to the rights of any tenants of the Trust Property. The failure to make any such tenants parties defendant to any such foreclosure proceeding and to foreclose their rights, or to provide notice to such tenants as required in any statutory procedure governing a sale of the Trust Property by Trustee, or to terminate such tenant's rights in such sale will not be



asserted by Grantor as a defense to any proceeding instituted by Beneficiary to collect the Obligations or to foreclose the lien created by this Deed of Trust.

(d) Unless expressly provided otherwise, or unless this Deed of Trust is foreclosed, in the event that ownership of this Deed of Trust and title to the Trust Property or any estate therein shall become vested in the same person or entity, this Deed of Trust shall not merge in such title but shall continue as a valid lien on the Trust Property for the amount secured hereby.

Section 18. Security Agreement under Uniform Commercial Code. (a) It is the intention of the parties hereto that this Deed of Trust shall also constitute a Security Agreement within the meaning of the Uniform Commercial Code of the State of Washington (the "Code"), AND Grantor hereby grants to Beneficiary a security interest in all the Trust Property that is personal property under the Code. If an Event of Default shall occur under this Deed of Trust, then in addition to having any other right or remedy available at law or in equity, Beneficiary shall have the option of either (i) proceeding under the Code and exercising such rights and remedies as may be provided to a secured party by the Code with respect to all or any portion of the Trust Property which is personal property (including, without limitation, taking possession of and selling such property) or (ii) treating such property as real property and proceeding with respect to both the real and personal property constituting the Trust Property in accordance with Beneficiary's rights, powers and remedies with respect to the real property (in which event the default provisions of the Code shall not apply). If Beneficiary shall elect to proceed under the Code, then ten days' notice of sale of the personal property shall be deemed reasonable notice, and the reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by Beneficiary shall include, but not be limited to, attorneys' fees and legal expenses. At Beneficiary's request, Grantor shall assemble the personal property and make it available to Beneficiary at a place designated by Beneficiary which is reasonably convenient to both parties.

(b) Grantor and Beneficiary agree, to the extent permitted by law, that: (i) all of the goods described within the definition of the word "Equipment" are or are to become fixtures on the Real Estate; (ii) this Deed of Trust upon recording or registration in the real estate records of the proper office shall constitute a financing statement filed as a "fixture filing" within the meaning of Sections 9-334 and 9-502 of the Code; (iii) Grantor is the record owner of the Owned Land; and (iv) the addresses of Grantor and Beneficiary are as set forth on the first page of this Deed of Trust.

(c) Grantor, upon request by Beneficiary from time to time, shall execute, acknowledge and deliver to Beneficiary one or more separate security agreements, in form satisfactory to Beneficiary, covering all or any part of the Trust Property and will further execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any financing statement, affidavit, continuation statement or certificate or other document as Beneficiary may request in order to perfect, preserve, maintain, continue or extend the security interest under and the priority of this Deed of Trust and such security instrument. Grantor further agrees to pay to Beneficiary on demand all costs and expenses incurred by Beneficiary in



connection with the preparation, execution, recording, filing and re-filing of any such document and all reasonable costs and expenses of any record searches for financing statements Beneficiary shall reasonably require. If Grantor shall fail to furnish any financing or continuation statement within ten (10) days after request by Beneficiary, then pursuant to the provisions of the Code, Grantor hereby authorizes Beneficiary, without the signature of Grantor, to execute and file any such financing and continuation statements. The filing of any financing or continuation statements in the records relating to personal property or chattels shall not be construed as in any way impairing the right of Beneficiary to proceed against any personal property encumbered by this Deed of Trust as real property, as set forth above.

Section 19. Assignment of Rents. Grantor hereby assigns to Trustee, for the benefit of the Beneficiary, the Rents as further security for the payment and performance of the Obligations, and Grantor grants to Trustee and Beneficiary the right to enter the Trust Property for the purpose of collecting the same and to let the Trust Property or any part thereof, and to apply the Rents on account of the Obligations. The foregoing assignment and grant is present and absolute and shall continue in effect until the Obligations are paid and performed in full, but Beneficiary and Trustee hereby waive the right to enter the Trust Property for the purpose of collecting the Rents, and Grantor shall be entitled to collect, receive, use and retain the Rents until the occurrence of an Event of Default under this Deed of Trust; such right of Grantor to collect, receive, use and retain the Rents may be revoked by Beneficiary upon the occurrence of any Event of Default under this Deed of Trust by giving not less than five (5) days' written notice of such revocation to Grantor; in the event such notice is given, Grantor shall pay over to Beneficiary, or to any receiver appointed to collect the Rents, any lease security deposits, and shall pay monthly in advance to Beneficiary, or to any such receiver, the fair and reasonable rental value as determined by Beneficiary for the use and occupancy of the Trust Property or of such part thereof as may be in the possession of Grantor or any affiliate of Grantor, and upon default in any such payment Grantor and any such affiliate will vacate and surrender the possession of the Trust Property to Beneficiary or to such receiver, and in default thereof may be evicted by summary proceedings or otherwise.

Section 20. Trust Funds. All lease security deposits of the Real Estate shall be treated as trust funds not to be commingled with any other funds of Grantor. Within 10 days after request by Beneficiary, Grantor shall furnish Beneficiary satisfactory evidence of compliance with this subsection, together with a statement of all lease security deposits by lessees and copies of all Leases not previously delivered to Beneficiary, which statement shall be certified by Grantor.

Section 21. Additional Rights. The holder of any subordinate lien on the Trust Property shall have no right to terminate any Lease whether or not such Lease is subordinate to this Deed of Trust nor shall any holder of any subordinate lien or subordinate deed of trust join any tenant under any Lease in any trustee's sale or action to foreclose the lien or modify, interfere with, disturb or terminate the rights of any tenant under any Lease. By recordation of this Deed of Trust all subordinate lienholders and the trustees and beneficiaries under subordinate deeds of trust are subject to and notified of this provision, and any action taken by any such lienholder or trustee or beneficiary contrary to this provision shall be null and void.



Upon the occurrence of any Event of Default, Beneficiary may, in its sole discretion and without regard to the adequacy of its security under this Deed of Trust, apply all or any part of any amounts on deposit with Beneficiary under this Deed of Trust against all or any part of the Obligations. Any such application shall not be construed to cure or waive any Default or Event of Default or invalidate any act taken by Beneficiary on account of such Default or Event of Default.

Section 22. Notices. All notices, requests, demands and other communications hereunder shall be given in accordance with the provisions of subsection 14.5 of the Loan Agreement to Grantor and to Beneficiary as specified therein.

Section 23. No Oral Modification. This Deed of Trust may not be amended, supplemented or otherwise modified except in accordance with the provisions of subsection 14.3 of the Loan Agreement. Any agreement made by Grantor and Beneficiary after the date of this Deed of Trust relating to this Deed of Trust shall be superior to the rights of the holder of any intervening or subordinate deed of trust, lien or encumbrance. Trustee's execution of any written agreement between Grantor and Beneficiary shall not be required for the effectiveness thereof as between Grantor and Beneficiary.

Section 24. Partial Invalidity. In the event any one or more of the provisions contained in this Deed of Trust shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, but each shall be construed as if such invalid, illegal or unenforceable provision had never been included. Notwithstanding to the contrary anything contained in this Deed of Trust or in any provisions of any of the Loan Documents, the obligations of Grantor and of any other obligor under the any Loan Document shall be subject to the limitation that Beneficiary shall not charge, take or receive, nor shall Grantor or any other obligor be obligated to pay to Beneficiary, any amounts constituting interest in excess of the maximum rate permitted by law to be charged by Beneficiary.

Section 25. Grantor's Waiver of Rights. To the fullest extent permitted by law, Grantor waives the benefit of all laws now existing or that may subsequently be enacted providing for (i) any appraisalment before sale of any portion of the Trust Property, (ii) any extension of the time for the enforcement of the collection of the Obligations or the creation or extension of a period of redemption from any sale made in collecting such debt and (iii) exemption of the Trust Property from attachment, levy or sale under execution or exemption from civil process. To the full extent Grantor may do so, Grantor agrees that Grantor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisalment, valuation, stay, exemption, extension or redemption, or requiring foreclosure of this Deed of Trust before exercising any other remedy granted hereunder and Grantor, for Grantor and its successors and assigns, and for any and all persons ever claiming any interest in the Trust Property, to the extent permitted by law, hereby waives and releases all rights of redemption, valuation, appraisalment, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshalling in the event of exercise by Trustee or Beneficiary of the power of sale or other rights hereby created.



Section 26. Remedies Not Exclusive. Beneficiary and Trustee shall be entitled to enforce payment and performance of the Obligations and to exercise all rights and powers under this Deed of Trust or under any of the other Loan Documents or other agreement or any laws now or hereafter in force, notwithstanding some or all of the Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, security agreement, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement, shall prejudice or in any manner affect Beneficiary's or Trustee's right to realize upon or enforce any other security now or hereafter held by Beneficiary and Trustee, it being agreed that Beneficiary and Trustee shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as Beneficiary may determine in its absolute discretion. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Beneficiary or Trustee or to which either may otherwise be entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Beneficiary or Trustee. In no event shall Beneficiary or Trustee, in the exercise of the remedies provided in this Deed of Trust (including, without limitation, in connection with the assignment of Rents to Beneficiary, or the appointment of a receiver and the entry of such receiver on to all or any part of the Trust Property), be deemed a "mortgagee in possession," and neither Beneficiary nor Trustee shall in any way be made liable for any act, either of commission or omission, in connection with the exercise of such remedies.

Section 27. Multiple Security. If (a) the Premises shall consist of one or more parcels, whether or not contiguous and whether or not located in the same county, or (b) in addition to this Deed of Trust, Beneficiary shall now or hereafter hold one or more additional mortgages, liens, deeds of trust or other security (directly or indirectly) for the Obligations upon other property in the State in which the Premises are located (whether or not such property is owned by Grantor or by others) or (c) both the circumstances described in clauses (a) and (b) shall be true, then to the fullest extent permitted by law, Beneficiary may, at its election, commence or consolidate in a single trustee's sale or foreclosure action all trustee's sale or foreclosure proceedings against all such collateral securing the Obligations (including the Trust Property), which action may be brought or consolidated in the courts of, or sale conducted in, any county in which any of such collateral is located. Grantor acknowledges that the right to maintain a consolidated trustee's sale or foreclosure action is a specific inducement to Beneficiary to extend the indebtedness guaranteed by the Loan Agreement, and Grantor expressly and irrevocably waives any objections to the commencement or consolidation of the foreclosure proceedings in a single action and any objections to the laying of venue or based on the grounds of *forum non conveniens* which it may now or hereafter have. Grantor further agrees that if Trustee or Beneficiary shall be prosecuting one or more foreclosure or other proceedings against a portion of the Trust Property or against any collateral other than the Trust Property, which collateral directly or indirectly secures the Obligations, or if Beneficiary shall have obtained a judgment of foreclosure and sale or similar judgment against such collateral (or, in the case of a trustee's sale, shall have met the statutory requirements therefor with respect to the collateral), then, whether or not such proceedings are being maintained or judgments were



200910200007

Skagit County Auditor



obtained in or outside the State in which the Premises are located, Beneficiary may commence or continue any trustee's sale or foreclosure proceedings and exercise its other remedies granted in this Deed of Trust against all or any part of the Trust Property and Grantor waives any objections to the commencement or continuation of a foreclosure of this Deed of Trust or exercise of any other remedies hereunder based on such other proceedings or judgments, and waives any right to seek to dismiss, stay, remove, transfer or consolidate either any action under this Deed of Trust or such other proceedings on such basis. Neither the commencement nor continuation of proceedings to sell the Trust Property in a trustee's sale, to foreclose this Deed of Trust nor the exercise of any other rights hereunder nor the recovery of any judgment by Beneficiary or the occurrence of any sale by the Trustee in any such proceedings shall prejudice, limit or preclude Beneficiary's right to commence or continue one or more trustee's sales, foreclosure or other proceedings or obtain a judgment against (or, in the case of a trustee's sale, to meet the statutory requirements for, any such sale of) any other collateral (either in or outside the State in which the Premises are located) which directly or indirectly secures the Obligations, and Grantor expressly waives any objections to the commencement of, continuation of, or entry of a judgment in such other sales or proceedings or exercise of any remedies in such sales or proceedings based upon any action or judgment connected to this Deed of Trust, and Grantor also waives any right to seek to dismiss, stay, remove, transfer or consolidate either such other sales or proceedings or any sale or action under this Deed of Trust on such basis. It is expressly understood and agreed that to the fullest extent permitted by law, Beneficiary may, at its election, cause the sale of all collateral which is the subject of a single trustee's sale or foreclosure action at either a single sale or at multiple sales conducted simultaneously and take such other measures as are appropriate in order to effect the agreement of the parties to dispose of and administer all collateral securing the Obligations (directly or indirectly) in the most economical and least time-consuming manner.

Section 28. Successors and Assigns. All covenants of Grantor contained in this Deed of Trust are imposed solely and exclusively for the benefit of Beneficiary and Trustee and their respective successors and assigns, and no other person or entity shall have standing to require compliance with such covenants or be deemed, under any circumstances, to be a beneficiary of such covenants, any or all of which may be freely waived in whole or in part by Beneficiary or Trustee at any time if in the sole discretion of either of them such waiver is deemed advisable. All such covenants of Grantor shall run with the land and bind Grantor, the successors and assigns of Grantor (and each of them) and all subsequent owners, encumbrancers and tenants of the Trust Property, and shall inure to the benefit of Beneficiary, Trustee and their respective successors and assigns. Without limiting the generality of the foregoing, any successor to Trustee appointed by Beneficiary shall succeed to all rights of Trustee as if such successor had been originally named as Trustee hereunder. The word "Grantor" shall be construed as if it read "Grantors" whenever the sense of this Deed of Trust so requires and if there shall be more than one Grantor, the obligations of the Grantors shall be joint and several.

Section 29. No Waivers, etc. Any failure by Beneficiary to insist upon the strict performance by Grantor of any of the terms and provisions of this Deed of Trust shall not be deemed to be a waiver of any of the terms and provisions hereof, and Beneficiary, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Grantor of any and all of the terms and provisions of this Deed of Trust to be



200910200007

Skagit County Auditor

10/20/2009 Page

17 of 35 9:24AM

performed by Grantor. Beneficiary may release, regardless of consideration and without the necessity for any notice to or consent by the beneficiary of any subordinate deed of trust or the holder of any subordinate lien on the Trust Property, any part of the security held for the obligations secured by this Deed of Trust without, as to the remainder of the security, in any way impairing or affecting the lien of this Deed of Trust or the priority of such lien over any subordinate lien or deed of trust.

Section 30. Governing Law, etc. This Deed of Trust shall be governed by and construed and interpreted in accordance with the laws of the State Washington, except that Grantor expressly acknowledges that by their terms the Loan Agreement, and the Notes shall be governed and construed in accordance with the laws of the State of New York, without regard to principles of conflict of law, and for purposes of consistency, Grantor agrees that in any *in personam* proceeding related to this Deed of Trust the rights of the parties to this Deed of Trust shall also be governed by and construed in accordance with the laws of the State of New York governing contracts made and to be performed in that state, without regard to principles of conflict of law.

Section 31. Certain Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Deed of Trust shall be used interchangeably in singular or plural form and the word "Grantor" shall mean "Grantor, or any subsequent owner or owners of the Trust Property or any part thereof or interest therein," the word "Beneficiary" shall mean "Beneficiary, or any successor agent for the Beneficiary," the word "Trustee" shall mean "Trustee, or any successor hereunder," the words "Loan Agreement" shall mean "the Loan Agreement, or any other guaranty or evidence of indebtedness secured by this Deed of Trust," the word "person" shall include any individual, corporation, partnership, trust, unincorporated association, government, governmental authority, or other entity, and the words "Trust Property" shall include any portion of the Trust Property or interest therein. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa. The captions in this Deed of Trust are for convenience or reference only and in no way limit or amplify the provisions hereof.

Section 32. Trust Lease Provisions. (a) Grantor shall pay or cause to be paid all rent and other charges required under the Trust Lease as and when the same are due and shall promptly and faithfully perform or cause to be performed all other material terms, obligations, covenants, conditions, agreements, indemnities, representations, warranties or liabilities of the lessee under the Trust Lease. Grantor shall not (i) if an Event of Default shall have occurred and be continuing, in any manner, cancel, terminate or surrender, or permit the cancellation, termination or surrender, of the Trust Lease, in whole or in part except as may be expressly permitted under the Loan Agreement, (ii) either orally or in writing, modify, amend or permit any modification or amendment of any of the terms of the Trust Lease in any material respect without the prior written consent of Beneficiary, which consent shall not be unreasonably withheld (it being agreed that for purposes of this Section 32(a), "material" shall be deemed to mean and refer to modifications or amendments to the Trust Lease which may affect the lien of this Deed of Trust or the validity, scope or enforceability thereof), or (iii) after the date hereof,



permit the subordination of the Trust Lease to any deed of trust without a nondisturbance agreement acceptable to Beneficiary and any attempt to do any of the foregoing shall be null and void and of no effect and shall constitute an Event of Default hereunder.

(b) Grantor shall do, or cause to be done, all things necessary to preserve and keep unimpaired all rights of Grantor as lessee under the Trust Lease, and to prevent any default under the Trust Lease, or any termination, surrender, cancellation, forfeiture, subordination or impairment thereof. Grantor does hereby authorize and irrevocably appoint and constitute Beneficiary as its true and lawful attorney-in-fact, which appointment is coupled with an interest, in its name, place and stead, to take any and all actions deemed necessary or desirable by Beneficiary to perform and comply with all the obligations of Grantor under the Trust Lease, and to do and take, but without any obligation so to do, after ten (10) days' notice to Grantor, any action which Beneficiary deems necessary or desirable to prevent or cure any default by Grantor under the Trust Lease, to enter into and upon the Premises or any part thereof to such extent and as often as Beneficiary, in its sole discretion, deems necessary or desirable in order to prevent or cure any default of Grantor pursuant thereto, to the end that the rights of Grantor in and to the leasehold estate created by the Trust Lease shall be kept unimpaired and free from default. All sums so expended by Beneficiary, with interest thereon at the Default Rate from the date of each such expenditure, shall be paid by Grantor to Beneficiary promptly upon demand by Beneficiary. Grantor shall, within five (5) business days after written request by Beneficiary, execute and deliver to Beneficiary, or to any person designated by Beneficiary, such further instruments, agreements, powers, assignments, conveyances or the like as may be necessary to complete or perfect the interest, rights or powers of Beneficiary pursuant to this paragraph.

(c) Grantor shall enforce the material obligations of the lessor under the Trust Lease and shall promptly notify Beneficiary in writing of any material default by either the lessor or Grantor in the performance or observance of any of the terms, covenants and conditions contained in the Trust Lease. Grantor shall deliver to Beneficiary, within ten (10) business days after receipt, a copy of any material notice, demand, complaint or request for compliance made by the lessor under the Trust Lease. If the lessor shall deliver to Beneficiary a copy of any notice of default given to Grantor, such notice shall constitute full authority and protection to Beneficiary for any actions taken or omitted to be taken in good faith by Beneficiary on such notice.

(d) If any action or proceeding shall be instituted to evict Grantor or to recover possession of the Trust Property from Grantor or any part thereof or interest therein or any action or proceeding otherwise affecting the Trust Lease or this Deed of Trust shall be instituted, then Grantor shall, immediately after receipt deliver to Beneficiary a true and complete copy of each petition, summons, complaint, notice of motion, order to show cause and all other pleadings and papers, however designated, served in any such action or proceeding.

(e) Grantor covenants and agrees that the fee title to the Leased Land and the leasehold estate created under the Trust Lease shall not merge but shall always remain separate and distinct, notwithstanding the union of said estates either in Grantor or a third party by purchase or otherwise; and in case Grantor acquires the fee title, an easement interest, or any



other estate, title or interest in and to the Leased Land, the lien of this Deed of Trust shall, without further conveyance, simultaneously with such acquisition, be spread to cover and attach to such acquired estate and as so spread and attached shall be prior to the lien of any deed of trust placed on the acquired estate after the date of this Deed of Trust.

(f) If an Event of Default shall have occurred and be continuing, all rights of Grantor to make any election or give any consent or approval under the Trust Lease, to receive moneys payable to Grantor under the Trust Lease, to renew, extend, terminate or modify the Trust Lease and to purchase the Leased Land and the Improvements located thereon, which have been assigned for collateral purposes to Beneficiary, shall automatically vest exclusively in and be exercisable solely by Beneficiary.

(g) Grantor will give Beneficiary prompt written notice of the commencement of any arbitration or appraisal proceeding under and pursuant to the provisions of the Trust Lease involving amounts in excess of \$50,000.00 on a present value basis. Automatically upon the occurrence of an Event of Default and for so long as it shall be continuing, Beneficiary shall have the sole authority to conduct any such proceeding and Grantor hereby irrevocably appoints and constitutes Beneficiary as its true and lawful attorney-in-fact, which appointment is coupled with an interest, in its name, place and stead, to exercise, at the expense of Grantor, all right, title and interest of Grantor in connection with such proceeding, including the right to appoint arbitrators and to conduct arbitration proceedings on behalf of Grantor, following an Event of Default. Nothing contained herein shall obligate Beneficiary to participate in such proceeding.

(h) If an Event of Default shall have occurred and be continuing, Beneficiary may act in Grantor's stead with respect to the exercise of any option or right to renew or extend the term of the Trust Lease, and Grantor hereby irrevocably authorizes and appoints Beneficiary as its true and lawful attorney-in-fact, which appointment is coupled with an interest, in its name, place and stead, to execute and deliver, for and in the name of Grantor, all of the instruments and agreements necessary under the Trust Lease or otherwise to cause any extension of the term thereof. Nothing contained herein shall affect or limit any rights of Grantor or Beneficiary granted under the Trust Lease.

(i) Grantor shall, within ten (10) days after written demand from Beneficiary, deliver to Beneficiary proof of payment of all items that are required to be paid by Grantor under the Trust Lease, including, without limitation, rent, taxes, operating expenses and other charges.

(j) (i) The lien of this Deed of Trust shall attach to all of Grantor's rights and remedies at any time arising under or pursuant to Subsection 365(h) of the Bankruptcy Code, 11 U.S.C. § 365(h), as the same may hereafter be amended (the "**Bankruptcy Code**"), including, without limitation, all of Grantor's rights to remain in possession of the Leased Land. If an Event of Default shall have occurred and be continuing, Grantor shall not, without Beneficiary's prior written consent, elect to treat the Trust Lease as terminated under Subsection 365(h)(1)(A)(i) of the Bankruptcy Code. Any such election made without Beneficiary's consent shall be void.



(ii) If an Event of Default shall have occurred and be continuing, Beneficiary shall have the right to proceed in its own name or in the name of Grantor in respect of any claim, suit, action or proceeding relating to the rejection of the Trust Lease by the lessor or any other party, including, without limitation, the right to file and prosecute under the Bankruptcy Code, without joining or the joinder of Grantor, any proofs of claim, complaints, motions, applications, notices and other documents. Any amounts received by Beneficiary as damages arising out of the rejection of the Trust Lease as aforesaid shall be applied first to all costs and expenses of Beneficiary (including, without limitation, attorneys' fees) incurred in connection with the exercise of any of its rights or remedies under this paragraph and thereafter in accordance with Section 2.10(c) of the Loan Agreement. Grantor acknowledges that the assignment of all claims and rights to the payment of damages from the rejection of the Trust Lease made under the granting clauses of this Deed of Trust constitutes a present irreversible and unconditional assignment and Grantor shall, at the request of Beneficiary, promptly make, execute, acknowledge and deliver, in form and substance satisfactory to Beneficiary, a UCC Financing Statement (Form UCC-1) and all such additional instruments, agreements and other documents, as may at any time hereafter be required by Beneficiary to carry out such assignment.

(iii) If pursuant to Subsection 365(h)(1)(B) of the Bankruptcy Code, Grantor shall seek to offset against the rent reserved in the Trust Lease the amount of any damages caused by the nonperformance by the lessor or any other party of any of their respective obligations under such Trust Lease after the rejection by the lessor or such other party of such Trust Lease under the Bankruptcy Code, then Grantor shall, if an Event of Default shall have occurred and be continuing, prior to effecting such offset, notify Beneficiary of its intent to do so, setting forth the amount proposed to be so offset and the basis therefor. In such event, Beneficiary shall have the right to object to all or any part of such offset that, in the reasonable judgment of Beneficiary, would constitute a breach of such Trust Lease, and in the event of such objection, Grantor shall not effect any offset of the amounts found objectionable by Beneficiary. Neither Beneficiary's failure to object as aforesaid nor any objection relating to such offset shall constitute an approval of any such offset by Beneficiary.

(iv) Grantor shall, after obtaining knowledge thereof, promptly notify Beneficiary of any filing by or against the lessor or other party with an interest in the Real Estate of a petition under the Bankruptcy Code. Grantor shall promptly deliver to Beneficiary, following receipt, copies of any and all notices, summonses, pleadings, applications and other documents received by Grantor in connection with any such petition and any proceedings relating thereto.

(v) If there shall be filed by or against Grantor a petition under the Bankruptcy Code and Grantor, as lessee under the Trust Lease, shall determine to reject the Trust Lease pursuant to Section 365(a) of the Bankruptcy Code, then Grantor shall give Beneficiary not less than ten (10) days' prior notice of the date on which Grantor shall apply to the Bankruptcy Court for authority to reject the Trust Lease.



(k) Grantor shall request and use commercially reasonable efforts to furnish to Beneficiary, from time to time upon receipt of reasonable notice from Beneficiary but no more often than once every three months, in form and substance reasonably satisfactory to Beneficiary, any estoppel certificate from the lessor under the Trust Lease with respect to such Trust Lease provided for in such Trust Lease.

(l) If an Event of Default shall have occurred and be continuing and the Trust Lease shall be terminated prior to the natural expiration of its term, and if, pursuant to any provision of the Trust Lease or otherwise, Beneficiary or its designee shall acquire from the lessor under such Trust Lease a new lease of the Real Estate or any part thereof, Grantor shall have no right, title or interest in or to such new lease or the leasehold estate created thereby, or renewal privileges therein contained.

(m) Notwithstanding anything to the contrary set forth herein, to the extent that any covenant or other obligation of Grantor contained herein shall be expressly imposed upon the lessor under a Trust Lease pursuant to the provisions thereof, Grantor shall not be deemed to be in default of such obligation or covenant with respect to such portion of the Premises as is covered by such Trust Lease, provided that Grantor shall enforce such obligations of such lessor in accordance with the terms of the Trust Lease.

Section 33. Last Dollars Secured; Priority. This Deed of Trust secures only a portion of the indebtedness owing or which may become owing by the Grantor to the Beneficiary. The parties agree that any payments or repayments of such indebtedness shall be and be deemed to be applied first to the portion of the indebtedness that is not secured hereby, it being the parties' intent that the portion of the indebtedness last remaining unpaid shall be secured hereby.

Section 34. Release. Upon the disposition of all or any portion of the Trust Property pursuant to the provisions of Section 11.4 of the Loan Agreement, the lien of this Deed of Trust shall be released from the applicable portion of the Trust Property. Beneficiary shall execute any documents reasonably requested by Grantor to accomplish any release contemplated by this Section and Grantor will pay all costs and expenses, including reasonable attorneys' fees, disbursements and other charges, incurred by Beneficiary in connection with the preparation and execution of such documents.

Section 35. Usury Laws. Notwithstanding anything to the contrary, (a) all agreements and communications between Grantor and Beneficiary are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Beneficiary shall never exceed the maximum lawful rate or amount, (b) in calculating whether any interest exceeds the lawful maximum, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Grantor to Beneficiary, and (c) if through any contingency or event, Beneficiary receives or is deemed to receive interest in excess of the lawful maximum, any such excess shall be deemed to have been applied toward payment of the principal of any and all then



outstanding indebtedness of Grantor to Beneficiary, or if there is no such indebtedness, shall immediately be returned to Grantor.

Section 36. State Specific Provisions.

(a) Non-Agricultural Use. The Real Estate which is the subject of this Deed of Trust is not used principally for agricultural purposes.

(b) Oral Agreements. **NOTICE IS HEREBY GIVEN THAT ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, MODIFY LOAN TERMS, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**

(c) Assignment of Rents. The assignment of Rents pursuant to this Deed of Trust is intended to be specific, perfected and choate upon recording as provided in RCW 7.28.230.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**



IN WITNESS WHEREOF, this Deed of Trust has been duly executed by Grantor  
on the date first-above written, intended to be effective as of same date.

**GRANTOR:**

**AMERICAN TOWER ASSET SUB, LLC,**  
a Delaware limited liability company

By: 

Name: H. Anthony Lehv

Title: Senior Vice President



200910200007

Skagit County Auditor



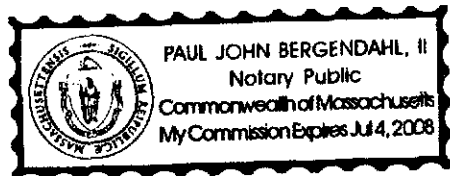
NOTARY ACKNOWLEDGMENT

STATE OF MASSACHUSETTS )  
 ) ss.  
COUNTY OF SUFFOLK )

On this 4th day of May, 2007, before me, the undersigned, a Notary Public in and for the State of ~~Washington~~ Massachusetts, duly commissioned and sworn personally appeared H. Anthony Lehv, known to me to be the Senior Vice President of AMERICAN TOWER ASSET SUB, LLC, a Delaware limited liability company, the limited liability company that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

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.

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



Paul John Bergendahl, II  
Signature

PAUL JOHN BERGENDAHL II  
Print Name

NOTARY PUBLIC in and for the State of  
Massachusetts, residing at

c/o AMERICAN TOWERS, INC.  
116 HUNTINGTON AVENUE, 11TH FLOOR  
BOSTON, MA 02116

My commission expires

July 4, 2008



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**SCHEDULE A**

**DESCRIPTION OF THE OWNED LAND**

(attached hereto)



**DESCRIPTION OF THE OWNED LAND**  
**(Skagit County, Washington)**

None.



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**SCHEDULE B-1**

**DESCRIPTION OF THE TRUST LEASE**

(attached hereto)



**DESCRIPTION OF THE TRUST LEASE**  
(Skagit County, Washington)

<b>Tower</b>	<b>Title</b>	<b>Date</b>	<b>Lessor</b>	<b>Lessee</b>
310510	Communications Site Lease Agreement (Ground)	July 24, 1997	Crown Pacific Limited Partnership, a Delaware limited partnership	Nextel West Corp., a Delaware corporation d/b/a Nextel Communications
310584	Communications Site Option and Lease Agreement (Ground)	March 20, 1997	Goodyear Nelson Hardwood Lumber Co., Inc., a Washington corporation	OneCom Corporation NorthA., a Delaware corporation, d/b/a Nextel Communications
310585	Communications Site Option and Lease Agreement (Ground)	February 18, 1997	Smiley's Inc., a Washington corporation	OneCom Corporation NorthA., a Delaware corporation, d/b/a Nextel Communications



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## Lease Amendments

### Washington

Borrower: *American Tower Asset Sub, LLC*

Tower	Site Name	Amendment	Date
310510	Rebar	First Amendment to the Lease	7/1/1998
310510	Rebar	Second Amendment to the Lease	6/25/1999
310584	Sedro Wooley-goodyear	First Amendment to the Lease	7/13/2000

*Other amendments will not have a material adverse affect*



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**SCHEDULE B-2**

**DESCRIPTION OF THE LEASED PROPERTY**

(attached hereto)



**DESCRIPTION OF THE LEASED LAND**  
**(Skagit County, Washington)**

The legal description for each of the following sites is attached.

Tower 310510

Tower 310584

Tower 310585



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Site Number: 310510  
Site Name: Rebar  
County: Skagit  
State: Washington

**LEASE AREA LEGAL DESCRIPTION:**

That portion of the South half of the North half of Section 5, Township 35 North, Range 8 East, Willamette Meridian, more particularly describes as follows:

**BEGINNING** at a Washington State Department of Transportation Survey mark designation GP29020-39 (detailed description on file with Washington State Department of Transportation Geographic Services). From which National Geodetic Survey control point designation K61 (detailed description on file with National Geodetic Survey) bears South  $87^{\circ}10'07''$  West a grid distance of 68,526.01 feet; Thence North  $37^{\circ}53'14''$  West a grid distance of 7,230.59 feet to the **TRUE POINT OF BEGINNING** of the herein described area; Thence North  $51^{\circ}32'17''$  West a distance of 100.00 feet; Thence North  $38^{\circ}27'43''$  East a distance of 100.00 feet; Thence South  $51^{\circ}32'17''$  East a distance of 100.00 feet; Thence South  $38^{\circ}27'43''$  West a distance of 100.00 feet to the true point of beginning.

Situated in Skagit County, Washington and containing approximately 10,000 square feet or 0.230 acres.



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ATC Site Number: 310585  
ATC Site Name: Nonrev/Smileys  
Skagit County, WA

### LEGAL DESCRIPTION

That portion of the Northeast quarter of the Northeast quarter of Section 24, Township 34 North, Range 3 East, W.M., described as follows:  
Beginning at the intersection of the south right of way line of the Memorial Highway and the east line of said northeast quarter of the northeast quarter; thence northwesterly along the southerly line of said highway right of way 391.40 feet; thence south parallel to the east line of said subdivision 175.15 feet to the northeast corner of a tract conveyed to Iner Moe, et ux, by deed recorded June 13, 1956, under Auditor's File No. 537374, said corner being the TRUE POINT OF BEGINNING of the tract herein described; thence west along the north line of said Moe tract, a distance of 45.00 feet; thence south parallel with the east line of said northeast quarter of the northeast quarter a distance of 45.00 feet; thence east parallel with the north line of said Moe tract, a distance of 45.00 feet; thence north parallel with the east line of said subdivision, a distance of 45.00 feet to the TRUE POINT OF BEGINNING.



200910200007

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ATC Site Number: 310584  
ATC Site Name: Sedro Wooley-Goodyear  
Skagit County, WA

### LEGAL DESCRIPTION

That portion of the southwest quarter or the northeast quarter of Section 31, Township 35 North, Range 5 East, W.M., described as follows:

Commencing at the southeast corner of said subdivision;

Thence North 00 degrees 54'33" East along the east line of said subdivision, a distance of 272.57 feet;

Thence North 89 degrees 05'27" West at right angles to said east line a distance of 290.67 feet to the TRUE POINT OF BEGINNING of parcel herein described;

Thence North 45 degrees 00'00" East, a distance of 45.00 feet;

Thence North 45 degrees 00'00" West, a distance of 45.00 feet;

Thence South 45 degrees 00'00" West, a distance of 45.00 feet;

Thence South 45 degrees 00'00" East, a distance of 45.00 feet to the TRUE POINT OF BEGINNING.



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10/20/2009 Page

35 of 35 9:24AM