

When recorded return to:

FIDELITY NATIONAL TITLE
ATTN: MICHELLE BURTON
60 E. Rio Salado Parkway, Suite 1110
Tempe, AZ 85281

Escrow No. Z0906950



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Skagit County Auditor

4/28/2010 Page

1 of

27 11:12AM

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

CHICAGO TITLE COMPANY
620006193

GRANTOR: NW REALTY LLC

GRANTEE: BANK OF AMERICA, N.A.
FIDELITY NATIONAL TITLE INSURANCE COMPANY OF WASHINGTON

PARCEL NO. P112832
LOT 2, BURLINGTON BSP NO. 2-97

Store # 20633
1308 Burlington Blvd
Burlington, WA

When recorded, return to:
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road
Atlanta, GA 30326
Attn: Frederick C. C. Boyd, III, Esq.

Unit:
Unit No. 26650
(formerly Unit No. 20633)
1308 Burlington Blvd
Burlington, Washington 98233
Skagit County

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

GRANTOR: NWR REALTY LLC, a Washington limited liability company

GRANTEE/BENEFICIARY: BANK OF AMERICA, N.A., a national banking association, in its capacity as Administrative Agent

GRANTEE/TRUSTEE: FIDELITY NATIONAL TITLE INSURANCE COMPANY OF WASHINGTON

LEGAL DESCRIPTION:

Abbreviated form: Lt. 2, Burlington BSP No. 297, Vol. 13, Pgs 67-68

Complete Legal Description beginning on Page 24 of document

ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBER(S): 8018-000-002-0000

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

APR 28 2010

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Skagit County Auditor

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

**DEED OF TRUST,
ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING
(Washington)**

THIS DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (herein called this "Deed of Trust") dated as of February 9, 2010, is executed by NWR REALTY LLC, a Washington limited liability company, as the grantor (herein, together with its successors and assigns, called "Grantor"), with a mailing address at 1600 Christensen Road, Suite 101, Seattle, Washington 98188, to FIDELITY NATIONAL TITLE INSURANCE COMPANY OF WASHINGTON, with a mailing address of 3500 188th St. SW, Suite 300, Lynnwood, WA 98037, as the trustee (herein, together with its successors and assigns, called "Trustee"), for the benefit of BANK OF AMERICA, N.A., a national banking association, in its capacity as Administrative Agent (as defined in the Credit Agreement referred to below) for the Lenders which are parties from time to time to the Credit Agreement (herein, together with its successors and assigns, called "Beneficiary"), with a mailing address at 600 Peachtree Street, NE, Mail Code: GA1-006-13-20 - 13th Floor, Atlanta, Georgia 30308, Attn: Credit Products Officer, Restaurant Finance Group (the Lenders, the Administrative Agent, and certain other Persons parties to Related Swap Contracts as more particularly described in Section 6.05 hereof, collectively referred to as the "Secured Parties").

RECITALS

A. Credit Agreement. Reference is hereby made to that certain Credit Agreement dated as of the date hereof, by and between NORTHWESTERN RESTAURANTS, INC., a Washington corporation, NORTHWESTERN DRIVE-INS, INC., a Washington corporation, NWR REALTY LLC, a Washington limited liability company, as borrowers, and Beneficiary, as administrative agent for the lenders that are a party thereto (the "Lenders"), as lenders (as may be amended, supplemented, consolidated, replaced, renewed, extended or modified from time to time, the "Credit Agreement"). Pursuant to the Credit Agreement, Beneficiary and/or Lenders have agreed to loan certain funds to Grantor (the "Loan") and Grantor has executed and delivered to Beneficiary that certain Note or Notes evidencing Grantor's obligation to repay the Loan (collectively, the "Note").

B. Secured Obligations. The obligations secured by this Deed of Trust (the "Obligations") are comprised at any time of the following:

(i) the full and punctual payment by Grantor when due of (a) all principal of and interest on the Loan and the Note; and (b) all other amounts payable by Grantor pursuant to the Credit Agreement, the Note or any other document or instrument evidencing or securing the Loan (together with the Credit Agreement, the Note and this Deed of Trust, the "Loan Documents" or individually a "Loan Document");

(ii) the full and punctual payment when due of all amounts payable by Grantor under this Deed of Trust, including, without limitation, indemnification obligations and advances made pursuant to the Loan Documents;

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(iii) the performance and observance by Grantor of each other term, covenant, agreement, requirement, condition and other provision to be performed or observed by Grantor under any Loan Document;

(iv) the performance and observance by Grantor of each other term, covenant, agreement, requirement, condition and other provision to be performed or observed by Grantor under all amendments, supplements, consolidations, replacements, renewals, extensions or other modifications of the foregoing, in each case whether now existing or hereafter arising;

(v) all obligations of the Grantor under any Related Treasury Management Arrangements (as defined in the Credit Agreement); and

(vi) any and all other indebtedness, liabilities and obligations of every nature whatsoever (whether or not otherwise secured or to be secured) of Grantor (whether as maker, endorser, surety, guarantor or otherwise) to Beneficiary and/or Beneficiary's affiliates, whether now existing or hereafter created or arising or now owned or howsoever hereafter acquired by Beneficiary and/or Beneficiary's affiliates, whether such indebtedness, liabilities and obligations are or will be joint or several, direct or indirect, absolute or contingent, liquidated or unliquidated, matured or unmatured, including, but not limited to, any letter of credit issued by Beneficiary for the account of Grantor; together with all expenses, attorneys' fees, paralegals' fees and legal assistants' fees actually incurred by Beneficiary and/or Beneficiary's affiliates in the preparation, execution, perfection or enforcement of any document relating to any of the foregoing.

The Obligations shall include, without limitation, any interest, costs, fees and expenses which accrue on or with respect to any of the foregoing, whether before or after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency or reorganization of Grantor.

GRANTING CLAUSES

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, for the purpose of securing the due and punctual payment, performance and observance of the Obligations and intending to be bound hereby, Grantor hereby grants, conveys, mortgages, bargains, sells, transfers and assigns to Trustee, in trust, for the benefit of Beneficiary or to Beneficiary as expressly set forth below, and for the purpose and upon the terms and conditions hereinafter set forth, **with power of sale** and right of entry and possession, all of the property and rights described in the following Granting Clauses (all of which property and rights are herein collectively called the "Mortgaged Property"), to wit:

GRANTING CLAUSE I

Land. All estate, right, title and interest of Grantor in, to or under those certain lots, pieces, tracts or parcels of land located in certain cities and/or counties in the State of Washington, more



particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Land").

GRANTING CLAUSE II

Improvements. All right, title and interest of Grantor in, to, under or derived from all buildings, structures, facilities and other improvements of every kind and description now or hereafter located on the Land or attached to the improvements which by the nature of their location thereon or attachment thereto are real property under applicable law (the foregoing being collectively the "Improvements"; and the Land with the Improvements thereon and Equipment therein and Appurtenant Rights thereto being collectively called the "Premises").

GRANTING CLAUSE III

Equipment. All estate, right, title and interest of Grantor in, to, under or derived from all machinery, equipment, fixtures and accessions thereof and renewals, replacements thereof and substitutions therefor, and all other customary franchise restaurant equipment and other tangible property of every kind and nature whatsoever owned by Grantor, or in which Grantor has or shall have an interest, now or hereafter located upon the Land, or usable exclusively in connection with the present or future operation and occupancy of the Premises (hereinafter collectively called the "Equipment").

GRANTING CLAUSE IV

Appurtenant Rights. All estate, right, title and interest of Grantor in, to, under or derived from all tenements, hereditaments and appurtenances now or hereafter relating to the Land; all development, operating or similar rights appurtenant to the Land (including, without limitation, all rights arising from reciprocal access agreements, use or development agreements, and parking agreements); and all easements, licenses and rights of way now or hereafter appertaining to the Land (hereinafter collectively called "Appurtenant Rights").

GRANTING CLAUSE V

General Intangibles, Payment Rights and Agreements. All estate, right, title and interest of Grantor in, to, under or derived from all contract rights, chattel paper, instruments, general intangibles, accounts, guaranties and warranties, letters of credit, and documents, in each case relating to the Premises or to the present or future operation or occupancy of the Premises, and all plans, specifications, maps, surveys, studies, records, insurance policies, guarantees and warranties, all relating to the Premises or to the present or future operation or occupancy of the Premises, all management contracts, all supply and service contracts for water, sanitary and storm sewer, drainage, electricity, steam, gas, telephone and other utilities relating to the Premises (the foregoing being herein collectively called the "Agreements") and all other agreements affecting or relating to the use, enjoyment or occupancy of the Premises or the Equipment.

GRANTING CLAUSE VI

Leases. All estate, right, title and interest of Grantor in, to, under and derived from any lease, tenancy, subtenancy, license, concession or other occupancy agreement relating to the



Premises (together with all amendments, supplements, consolidations, replacements, restatements, extensions, renewals and other modifications of any thereof) (the "Leases"), now or hereafter in effect, whether or not of record; and the right to bring actions and proceedings under the Lease or for the enforcement thereof and to do anything which Grantor or any lessor is or may become entitled to do under the Lease.

GRANTING CLAUSE VII

Rents, Issues and Profits. All estate, right, title and interest of Grantor in, to, under or derived from all rents, royalties, issues, profits, receipts, revenue, income, earnings and other benefits now or hereafter accruing with respect to all or any portion of the Premises, including all rents and other sums now or hereafter payable pursuant to the Leases; and all other claims, rights and remedies now or hereafter belonging or accruing with respect to the Premises, including oil, gas and mineral royalties (herein collectively called the "Rents"), all of which Grantor hereby irrevocably directs be paid to Beneficiary, subject to the license granted to Grantor pursuant to Section 5.07, to be held, applied and disbursed as provided in this Deed of Trust.

GRANTING CLAUSE VIII

Permits All estate, right, title and interest of Grantor in, to, under or derived from all licenses, certificates, variances, consents and other permits now or hereafter pertaining to the Premises and all estate, right, title and interest of Grantor in, to, under or derived from all tradenames or business names relating to the Premises or the present or future operation or occupancy of the Premises (herein collectively called the "Permits"), excluding, however, from the grant under this Granting Clause (but not the definition of the term "Permits" for the other purposes hereof) any Permits which cannot be transferred or encumbered by Grantor without causing a default thereunder or a termination thereof.

GRANTING CLAUSE IX

Proceeds and Awards. All estate, right, title and interest of Grantor in, to, under or derived from all proceeds of any sale, transfer, taking by condemnation (or any proceeding or purchase in lieu thereof), whether voluntary or involuntary, of any of the Mortgaged Property described above, including all insurance proceeds and awards and title insurance proceeds, now or hereafter relating to any of the Mortgaged Property, all of which Grantor hereby irrevocably directs be paid to Beneficiary to the extent provided hereunder, to be held, applied and disbursed as provided in this Deed of Trust.

TO HAVE AND TO HOLD the Mortgaged Property unto Trustee, its successors and assigns, for the benefit of Beneficiary, its successors and assigns, under and subject to the terms and conditions of this Deed of Trust, and for the security and enforcement of the prompt and complete payment and performance when due of all of the Obligations and the performance and observance by Grantor of all covenants, obligations and conditions to be performed or observed by Grantor pursuant to the Credit Agreement, the Note, and the other Loan Documents.

PROVIDED, HOWEVER, that this Deed of Trust is upon the condition that, if Grantor shall pay in full all of the Obligations and perform and observe all such covenants, obligations and conditions, this Deed of Trust shall cease, terminate pursuant to and in accordance



with Section 6.02 and, thereafter, be of no further force effect (except as provided in Sections 4.01, 4.02 and 5.06 hereof); otherwise this Deed of Trust shall remain and be in full force and effect.

FURTHER PROVIDED, that Trustee and Beneficiary may from time to time release or reconvey all or a portion of the Mortgaged Property, in accordance with the terms and conditions of the Credit Agreement and applicable law.

The Grantor covenants with the Beneficiary that Grantor is the owner of the fee simple interest in and to the Mortgaged Property; that the same is free from all encumbrances, except for the Permitted Liens (hereinafter defined); that **the Mortgaged Property is not used principally for agricultural or farming purposes**; that Grantor has good right, full power and lawful authority to sell and convey the same to Beneficiary and that Grantor and its successors and assigns, executors and administrators shall and will warrant and defend the same to the Beneficiary, and its successors and assigns forever against claims and demands of all persons.

GRANTOR ADDITIONALLY COVENANTS AND AGREES WITH TRUSTEE AND BENEFICIARY AS FOLLOWS:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. Capitalized terms used, but not otherwise defined herein, are defined in, or by reference to the Credit Agreement and have the same meanings herein as therein.

ARTICLE II

CERTAIN WARRANTIES AND COVENANTS OF GRANTOR

SECTION 2.01. Authority and Effectiveness. (a) Grantor represents, warrants and covenants that (i) Grantor is and shall be a limited liability company duly formed and validly existing under the laws of its state of incorporation or organization, and duly qualified to do business in the state in which the Premises is located and has and will have all governmental licenses, authorizations, consents and other qualifications required to carry on its business as now conducted, to own the Mortgaged Property and to execute, deliver and perform this Deed of Trust; (ii) the execution, delivery and performance by Grantor of this Deed of Trust are within Grantor's company power, have been duly authorized by all necessary company action, require no action by or in respect of, or filing with, any governmental body, agency or official and do not and will not contravene, or constitute a default under, any provision of the organizational documents of Grantor or of any agreement, judgment, injunction, order, decree or other instrument binding upon Grantor or relating to the Premises; and (iii) this Deed of Trust constitutes a legal, valid, binding and enforceable agreement of Grantor.

(b) Grantor shall cause the representations and warranties in subsection (a) of this Section to continue to be true in each and every respect at all times prior to the termination of this Deed of Trust.



SECTION 2.02. Title and Further Assurances. (a) Grantor hereby represents and warrants to Beneficiary that:

(i) Grantor is the owner of the fee simple interest in the Land and the Improvements free from all liens, security interests, Leases, charges or encumbrances whatsoever, except for such liens as are permitted under the Credit Agreement ("Permitted Liens");

(ii) Grantor is the owner of the Mortgaged Property, free and clear of all liens except for the Permitted Liens;

(iii) Grantor has good and lawful right to mortgage the Mortgaged Property to Beneficiary without the consent of any Person other than those consents which have been obtained;

(iv) the lien created by this Deed of Trust constitutes a valid, binding and enforceable lien on the Mortgaged Property; and

(v) the Permitted Liens do not materially interfere with or materially adversely affect the use, value or operation of the Premises.

(b) Grantor shall (i) cause the representations and warranties in subsection (a) of this Section to continue to be true in each and every respect at all times prior to the termination of this Deed of Trust; and (ii) preserve, protect, warrant and defend (A) the estate, right, title and interest of Grantor in and to its Mortgaged Property (B) the validity, enforceability and priority of the lien of this Deed of Trust, and (C) the right, title and interest of Beneficiary and any purchaser at any sale of the Mortgaged Property hereunder or relating hereto.

(c) Upon full execution, acknowledgment and the recording of this Deed of Trust in the county recording office of the county in which the Land is located, the lien of this Deed of Trust shall be a perfected mortgage lien and fixture filing on the Mortgaged Property.

(d) Grantor shall perform all acts that may be necessary to continue, maintain, preserve, protect and perfect the Mortgaged Property, the lien granted to Beneficiary therein and the perfected priority of such lien. Upon request by Beneficiary, Grantor shall at its sole cost and expense (i) promptly correct any defect or error which may be discovered in this Deed of Trust or any financing statement or other document relating hereto; and (ii) promptly execute, acknowledge, deliver, record, and re-record, register and re-register, and file and re-file this Deed of Trust and any fixture filings, financing statements or other documents which Beneficiary may reasonably require from time to time (all in form and substance reasonably satisfactory to Beneficiary) in order (A) to effectuate, complete, perfect, continue or preserve the lien of this Deed of Trust on the Mortgaged Property, whether now owned or hereafter acquired, (B) to correct or change the name of Grantor following any change in its identity or sale of the Mortgaged Property, or (C) to effectuate, complete, perfect, continue or preserve any right, power or privilege granted or intended to be granted to Beneficiary hereunder.

SECTION 2.03. Secured Obligations. Grantor shall duly and punctually pay, perform and observe the Obligations binding upon Grantor.



SECTION 2.04. Impositions. Subject to Section 2.06 and Section 2.09, Grantor shall (i) duly and punctually pay all Impositions before any fine, penalty, interest or cost may be added for nonpayment; and (ii) promptly notify Beneficiary of the receipt by Grantor of any notice of default in the payment of any Imposition. The term "Impositions" means all taxes, assessments and other governmental charges, ground rents, or other rents, charges, excises, levies, fees and other charges (public or private) which may be assessed, levied or imposed on, or in respect of or be a lien upon the Mortgaged Property or any part thereof or any interest therein.

SECTION 2.05. Compliance with Legal and Insurance Requirements. (a) Grantor represents and warrants that (i) as of the date hereof, the Premises and the use and operation thereof comply in all material respects with all Legal Requirements (as defined below), Insurance Requirements (as defined below) and contractual obligations; (ii) there is no material default under any Legal Requirement, Insurance Requirement and Contractual Obligation; and (iii) the execution, delivery and performance of this Deed of Trust does not require any consent the failure of which to obtain would contravene any provision of and constitute a material default under, any Legal Requirement, Insurance Requirement or Contractual Obligation. Notwithstanding the limitations set forth in the preceding sentence, Grantor represents and warrants that as of the date hereof, the Premises and the use thereof comply with all Environmental Laws and that Grantor has complied and shall comply with all Environmental Laws.

(b) Subject to Section 2.06 and Section 2.09, Grantor shall promptly perform and observe, or cause to be performed and observed and cause the Premises to comply with, if the failure to so perform and observe would have a Material Adverse Effect, (i) all laws, rules, regulations, judgments, orders, permits, licenses, authorizations and other requirements of and agreements with all governments, department agencies, courts and officials, which now or hereafter shall be applicable to the Mortgaged Property or any part thereof or any use or condition thereof including, without limitation, all Environmental Laws (herein collectively called the "Legal Requirements"); (ii) all terms of any insurance policy covering or applicable to the Mortgaged Property or any part thereof as required by the Credit Agreement, all requirements of the issuer of any such policy, and all orders, rules, regulations and other requirements of the National Board of Fire Underwriters (or any other body exercising similar functions) applicable to the Mortgaged Property or any part thereof or any use or condition thereof (herein collectively called the "Insurance Requirements"); and (iii) all Permits required for any construction, reconstruction, repair, alteration, addition, improvement, maintenance, use and operation of the Premises.

(c) Grantor shall promptly notify Beneficiary of the receipt by Grantor of any notice of default under any Legal Requirement, Insurance Requirement, Contractual Obligation, Permitted Lien or Permit or of the receipt by Grantor of any notice of any threatened or actual termination of any Permit or Insurance Policy and furnish to Beneficiary a copy of such notice of default or termination.

SECTION 2.06. Impound and Security Account. Upon the occurrence of an Event of Default, at Beneficiary's option and upon its demand and except where and to the degree prohibited by law, Grantor shall, until all Obligations have been paid in full, pay to Beneficiary each month an amount estimated by Beneficiary to be equal to (i) the Impositions, (ii) all payments and premiums with respect to the Insurance Requirements, and (iii) any payments required under Permitted Liens. Estimated payments of Impositions, Insurance Requirements and Permitted Lien payments shall be



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calculated by dividing the amount next due by, in each instance, the number of months to lapse preceding the month in which the same, respectively, will become due. All sums so paid shall not bear interest, except to the extent and in the minimum amount required by law, and Beneficiary shall, unless Grantor is otherwise in default hereunder or under any obligation secured hereby, apply said funds to the payment of, or at the sole option of Beneficiary release said funds to Grantor for application to and payment of, such Impositions, Insurance Requirements and Permitted Lien payments. However, upon the occurrence of an Event of Default by Grantor hereunder or under any obligation secured hereby, Beneficiary may, at its sole option, apply all or any part of said sums to any Obligations or to advance sums to pay such Imposition, Insurance Requirement or Permitted Lien payment, which advance shall not cure Grantor's default hereunder.

SECTION 2.07. Sale; Liens (a) Except as otherwise provided in the Credit Agreement, Grantor shall not sell, assign, transfer, convey, lease, mortgage, pledge, hypothecate, or permit to be sold, assigned, transferred, conveyed, leased, mortgaged, pledged, hypothecated or otherwise disposed of, the Mortgaged Property or any part thereof or interest therein (for the purposes of this Section, a "Transfer"), and shall not create, suffer or permit to be created or exist any lien attaching to the Mortgaged Property or any part thereof or interest therein, except the Permitted Liens or as permitted by the Credit Agreement. In the event of any Transfer or the creation, suffering, permitting to be created of any lien attaching to the Mortgaged Property or any part thereof, that is not expressly permitted hereunder or under the terms of the Credit Agreement and is without the prior written consent of Beneficiary, Beneficiary shall have the absolute right at its option, without prior demand or notice, to declare all of the Obligations immediately due and payable and pursue its rights and remedies under Article V. Consent to one such Transfer or lien shall not be deemed to be a waiver of the right to require the consent to future or successive Transfers or liens. Beneficiary shall have the right to grant or deny such consent in its absolute discretion. If consent should be given to a Transfer and if this Deed of Trust is not released to the extent of the Mortgaged Property transferred or subjected to a lien by a writing signed by Beneficiary and recorded in the proper city, town, county or parish records, then any such Transfer or lien shall be subject to this Deed of Trust and any such transferee shall assume all obligations hereunder and agree to be bound by all of the provisions contained hereunder.

(b) The Loan may be not assumed by a new borrower without the express written consent of Beneficiary, which consent may be withheld in Beneficiary's sole discretion.

SECTION 2.08. Status and Care of the Premises.

(a) Grantor represents and warrants that (i) the Premises is served by all necessary water, sanitary and storm sewer, electric, gas, telephone and other utility facilities which facilities have capacities which are sufficient to serve the current and anticipated future use and occupancy of the Premises as presently constructed; (ii) the Premises has legal access to public streets or roads sufficient to serve the current and anticipated future use and operation of the Premises as presently constructed; (iii) to the extent that the Premises is located in an area identified by the Secretary of Housing and Urban Development or a successor thereto as an area having special flood hazards or as an area designated as "flood prone" or a "flood risk area" pursuant to the National Flood Insurance Act of 1968 or the Flood Disaster Protection Act of 1973, and any amendments or supplements thereto or substitutions therefor, Grantor has purchased flood insurance to the extent available; and



(iv) all activities and conditions on the Premises are currently in compliance with all Legal Requirements.

(b) Grantor (i) shall use and operate the Premises, or cause the same to be used and operated as a restaurant; (ii) agrees that all activities on the Premises shall at all times comply with all Legal Requirements; (iii) shall operate and maintain the Premises, or cause the same to be operated and maintained, in good order, repair and condition except (subject to the provisions of this Section) for reasonable wear and tear; (iv) subject to the provisions of Section 3.02, shall make, or cause to be made, all repairs, replacements, alterations, additions and improvements of and to the Premises necessary or appropriate to keep the Premises in good order, repair and condition; (v) shall not initiate or affirmatively support any change in the applicable zoning adversely affecting the Premises, seek any variance (or any change in any variance), under the zoning adversely affecting the Premises; and (vi) shall, promptly after receiving notice or obtaining knowledge of any proposed or threatened change in the zoning affecting the Premises which would result in the current use of the Premises being a non-conforming use, notify Beneficiary thereof and diligently contest the same at Grantor's expense by any action or proceeding deemed appropriate by Grantor or requested by Beneficiary.

SECTION 2.09. Permitted Contests. After prior notice to Beneficiary, Grantor may contest at Grantor's expense, by appropriate legal or other proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any Imposition or lien therefor, any Legal Requirement, or any lien of any laborer, mechanic, materialman, supplier or vendor, provided that (a) the Mortgaged Property, or any part thereof or estate or interest therein, shall not be in any danger of being sold, forfeited or lost by reason of such proceedings; (b) in the case of (i) liens of laborers, mechanics, materialmen, suppliers or vendors or (ii) the Impositions, or liens therefor, such proceedings shall suspend the foreclosure of any such lien or any other collection thereof from the Mortgaged Property; (c) in the case of a Legal Requirement, Beneficiary shall not be in any danger of any criminal liability or, unless Grantor shall have furnished a bond or other security therefor reasonably satisfactory to Beneficiary, any additional civil liability for failure to comply therewith, and the Mortgaged Property, or any part thereof or estate or interest therein, shall not be subject to the imposition of any lien as a result of such failure which is not properly contested pursuant to this Section 2.09; and (d) if reasonably required by Beneficiary, Grantor shall have furnished to Beneficiary a bond or other security reasonably satisfactory to Beneficiary.

SECTION 2.10. Inspection. Beneficiary and its authorized agents and employees and any person designated by Beneficiary shall have the right to enter on and into the Premises at all reasonable times and, except in the event of an emergency, after reasonable notice for the purpose of inspecting the same, provided such inspection shall not unreasonably disturb business activities at the Premises.

SECTION 2.11. Compliance with Instruments. Grantor shall promptly perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all other instruments affecting the Premises if the failure to so perform or observe would have a Material Adverse Effect and shall do or cause to be done all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of or constituting any portion of the Mortgaged Property if the failure so to do would have a Material Adverse Effect.



SECTION 2.12. Improvements. To the best of Grantor's knowledge, all improvements on the Land lie wholly within the boundary and building restriction lines of the Land and no improvements on adjoining properties encroach upon the Land in any respect so as to have a Material Adverse Effect on the use, operation or value of the Premises.

SECTION 2.13. Casualty; Condemnation. The Mortgaged Property is free of material damage and waste and, to Grantor's knowledge, there is no proceeding pending or threatened for the total or partial condemnation thereof.

SECTION 2.14. Zoning and Other Laws. The Premises and the use thereof, separate and apart from any other properties, constitute a legal and conforming use in compliance with the zoning regulations for which the Premises is located. The Premises complies with all applicable subdivision laws, ordinances and regulations, such that failure to comply would not have a Material Adverse Effect. All inspections, licenses and certificates required, whether by law, ordinance, regulation or insurance standards, to be made or issued with respect to the Premises have been made by or issued by appropriate authorities, such that a failure to obtain such inspections, licenses or certificates would not have a Material Adverse Effect.

SECTION 2.15. Use of Loan Proceeds. Grantor shall use the proceeds of the Loan only for the purposes set forth in the Credit Agreement.

ARTICLE III

INSURANCE, CASUALTY AND CONDEMNATION

SECTION 3.01. Insurance. Grantor shall comply with all of the terms and provisions and shall maintain, or cause to be maintained, with respect to the Premises the insurance required by the Credit Agreement.

SECTION 3.02. Casualty and Condemnation. Grantor's right to collect or use any insurance proceeds or awards resulting from any casualty loss or condemnation shall be subject to, and applied in accordance with, the terms and provisions of the Credit Agreement. Grantor hereby authorizes and directs any affected insurance company and any affected governmental body responsible for such condemnation to make payment of the insurance proceeds or awards directly to Beneficiary. Grantor hereby irrevocably assigns to Beneficiary all insurance proceeds and awards to which Grantor may become entitled by reason of its interests in the Premises if a loss occurs.

ARTICLE IV

EXPENSES AND INDEMNIFICATION

SECTION 4.01. Expenses. Upon written demand, Grantor (a) shall reimburse Beneficiary for all out-of-pocket expenses, including reasonable attorneys' fees and expenses, paid or incurred by Beneficiary in connection with (i) any default or alleged default, (ii) the perfection, protection, exercise or enforcement of any right or remedy under or with respect to this Deed of Trust or any other Loan Document, and (iii) the execution, delivery, administration or performance of this Deed of Trust or any other Loan Document and any consent or waiver thereunder and any amendment thereof, or (b) if an Event of Default occurs, shall reimburse Beneficiary for all

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out-of-pocket expenses, including reasonable attorneys' fees and expenses, (i) paid or incurred by Beneficiary in connection with (A) such Event of Default and collection, bankruptcy, insolvency and enforcement proceedings resulting therefrom or (B) the exercise or enforcement of any right or remedy under or with respect to this Deed of Trust or any other Loan Document or (ii) otherwise paid or incurred with respect to this Deed of Trust or any other Loan Document, together, in each case, with interest thereon at the Default Rate from the date paid by Beneficiary through the date repaid to Beneficiary, as the case may be. All such funds advanced in the reasonable exercise of Beneficiary's judgment that the same are needed to protect the Mortgaged Property, the lien of this Deed of Trust, or the Obligations are to be deemed obligatory advances hereunder and shall constitute additional indebtedness secured by this Deed of Trust. The obligations of Grantor under this Section shall be part of the Obligations and shall survive any foreclosure or transfer in lieu of foreclosure of this Deed of Trust and the release of this Deed of Trust.

SECTION 4.02. Indemnification. To the fullest extent permitted by law, Grantor shall protect, defend, indemnify and save harmless Beneficiary, and its stockholders, members, directors, managers, officers, employees, beneficial owners, attorneys, agents and other representatives or affiliates of, and partners in, Beneficiary (each an "Indemnified Person") from and against any and all liabilities, losses, actions, fines, injunctions, obligations, claims, damages, penalties, causes of action, costs and expenses of any kind or nature (including, without limitation, in respect of or for reasonable attorneys' fees and expenses whether incurred within or outside the judicial process), imposed upon or incurred by or asserted against any such Indemnified Person including, without limitation, by reason of (i) this Deed of Trust or the Mortgaged Property or any interest therein or receipt of any Rents; (ii) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Mortgaged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (iii) any failure on the part of Grantor to perform or comply with any of the terms of this Deed of Trust; (iv) any violation or failure to comply with any Legal Requirement by Grantor or the Premises in any way; and (v) performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof, provided that any claims arising out of the willful misconduct or gross negligence of any Indemnified Person or act of any Indemnified Person after taking title to the Premises shall be excluded from the foregoing indemnification of such Indemnified Person. Any amounts payable to Beneficiary by reason of the application of this Section 4.02 shall be secured by this Deed of Trust as an Obligation and shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Beneficiary until paid. The obligations and liabilities of Grantor under this Section 4.02 shall survive any termination, satisfaction, assignment, entry of a judgment of foreclosure or delivery of a deed in lieu of foreclosure of this Deed of Trust and the exercise of any rights or remedies by Beneficiary.

SECTION 4.03. Interest. If any Obligation arising hereunder (including, to the extent permitted under applicable law, any interest obligation) shall not be paid when due, such Obligation shall bear interest at the Default Rate commencing from the due date through the date paid. Such interest shall be part of the Obligations and shall be secured by this Deed of Trust.

SECTION 4.04. Increased Costs; Change of Taxation. In the event of the enactment after the date hereof of any applicable law deducting from the value of the Premises for the purpose of taxation of any lien thereon or changing in any way the applicable taxation of mortgages, deeds of



trust or other liens or obligations secured thereby, or the manner of collection of such taxes, so as to affect this Deed of Trust, the Obligations or Beneficiary, upon demand by Beneficiary, to the extent permitted under applicable law, Grantor shall pay or reimburse Beneficiary for all taxes, assessments or other charges which Beneficiary is obligated to pay as a result thereof; provided, however, if for any reason payment by the Grantor of any such new or additional taxes, assessments or other charges would be unlawful or if the payment thereof would constitute usury or render the Loan wholly or partially usurious under any of the terms or provisions of the Credit Agreement, Note, or this Deed of Trust, or otherwise, the Beneficiary may, at its sole option, upon thirty (30) days' written notice to the Grantor, declare the whole indebtedness secured by this Deed of Trust, with interest thereon, to be immediately due and payable. Such taxes, assessments or other charges shall be part of the Obligations and shall be secured by this Deed of Trust.

ARTICLE V

DEFAULTS, REMEDIES AND RIGHTS

SECTION 5.01. Events of Default. The occurrence of any of the following events shall be deemed an event of default ("Event of Default") hereunder and shall, at the option of Beneficiary make all amounts then remaining unpaid on the Obligations immediately due and payable, all without further demand, presentment, notice or other requirements of any kind, all of which are expressly waived by Grantor, and the lien, encumbrance and security interest evidenced or created hereby shall be subject to foreclosure in any manner provided for herein or provided for by law and all other remedies available at law or in equity:

(a) The occurrence of any Event of Default (as defined in the Credit Agreement) under the Credit Agreement; or

(b) Grantor shall default in the performance or observance of any term, covenant or condition required to be observed by Grantor under this Deed of Trust.

SECTION 5.02. Fixtures. Upon the occurrence of any Event of Default, or at any time thereafter, Beneficiary may, to the extent permitted under applicable law, elect to treat the fixtures included in the Mortgaged Property either as real property or personal property, or both, and proceed to exercise such rights as apply thereto. With respect to any sale of real property included in the Mortgaged Property made under the power of sale herein granted and conferred, Beneficiary may, to the extent permitted by applicable law, include in such sale any personal property and fixtures included in the Mortgaged Property relating to such real property.

SECTION 5.03. Remedies Cumulative. All notice and cure periods provided in this Deed of Trust, the Credit Agreement or any other Loan Document shall run concurrently with any notice or cure periods provided under applicable law. No remedy or right of Beneficiary or Trustee hereunder, under the Credit Agreement and any other Loan Document or otherwise, or available under applicable law, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing at law or in equity under any such document or under applicable law. No failure or delay by Beneficiary in exercising any right hereunder shall operate as a waiver thereof or of any other right nor shall any single or partial exercise of any such right preclude any other further exercise thereof or of any other right. Unless



otherwise specified in such waiver or consent, a waiver or consent given hereunder shall be effective only in the specific instance and for the specific purpose for which given. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Beneficiary or Trustee. All obligations of Grantor, and all rights, powers and remedies of Beneficiary and Trustee expressed herein shall be in addition to, and not in limitation of, those provided by law, equity or in the Credit Agreement and any other Loan Document.

SECTION 5.04. Possession of Premises. Grantor hereby waives, while any Event of Default exists, all right to the possession, income, earnings, revenues, issues, profits and Rents of the Premises. Beneficiary or a Receiver (as the case may be as the Person exercising the rights under this Section) is hereby expressly authorized and empowered to the extent permitted by applicable law, but not obligated, while any Event of Default exists, (i) to enter into and upon and take possession of, and operate all facilities on, the Premises or any part thereof, personally, or by its agents or attorneys, and exclude Grantor therefrom without liability for trespass, damages or otherwise; (ii) to enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Grantor relating to the possession and operation of the Mortgaged Property; (iii) to conduct, either personally or by its agents, the business of the Premises; (iv) to exercise all rights of Grantor with respect to the Mortgaged Property, including, without limitation, the right to sue for or otherwise collect the Rents, including those that are unpaid; (v) to complete any alteration or restoration in progress on the Premises at the expense of Grantor at reasonable and customary cost or at such cost previously agreed to by Grantor, and (vi) to apply all income of the Premises less the necessary or appropriate expenses of collection thereof, either for the operation, care and preservation of the Premises, or, at the election of the Person exercising the rights under this Section in its sole discretion, as provided in Section 5.09 hereof. The Person exercising the rights under this Section is also hereby granted full and complete authority while any Event of Default exists (vii) to employ watchmen to protect the Mortgaged Property; (viii) to continue any and all outstanding contracts for the erection and completion of Improvements to the Premises; (ix) to make all necessary and proper repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises that, in its sole discretion, it may deem appropriate; (x) to insure and reinsure the Premises for all risks incidental to Beneficiary's possession, operation and management thereof; (xi) to make and enter into any contracts or obligations wherever necessary in its own name for the operation, care and preservation of the Mortgaged Property, and (xii) to pay and discharge all debts, obligations and liabilities incurred thereby, all at the expense of Grantor. The Person exercising the rights under this Section shall not be liable to account for any action taken hereunder, and shall not be liable for any loss sustained by Grantor resulting from any act or omission of such Person, except to the extent such loss is caused by such Person's willful misconduct or gross negligence. All such expenditures by the Person exercising the rights under this Section shall be Obligations hereunder.

SECTION 5.05. Foreclosure; Receiver. While any Event of Default exists, Beneficiary and Trustee, with or without entry, shall also have the following rights:

(a) to institute a proceeding or proceedings, by advertisement, judicial process or otherwise, as provided under applicable law, for the complete or partial foreclosure of this Deed of Trust or the complete or partial sale of the Mortgaged Property under the power of sale hereunder or under any applicable provision of law;



(b) to sell the Mortgaged Property and all estate, right, title and interest of Grantor therein as a whole or in separate parcels, at one or more sales, at such time and place and upon such terms and conditions as may be required by applicable law;

(c) to take such steps to protect and enforce rights, whether by action, suit or proceeding in equity or at law, for the specific performance of any provision in the Loan Documents, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy Beneficiary shall elect;

(d) to apply for the appointment of a receiver, supervisor, trustee, liquidator, conservator or other custodian (a "Receiver") of the Mortgaged Property or any part thereof and all earnings, revenues, Rents, issues, profits and income thereof, to the extent permitted by law without giving notice to any other party and without regard to the adequacy or inadequacy of the security of the Mortgaged Property or the solvency of either Grantor or any other Person and Grantor agrees that it shall not oppose the appointment of a Receiver; and

(e) to take all such other steps and to assert all such other rights and remedies as shall be permitted by applicable law.

The purchase money, proceeds or avails of any foreclosure or sale after default and any other sums which then may be held by Beneficiary under this Deed of Trust shall be applied as provided in Section 5.09 hereof.

SECTION 5.06. No Liability on Beneficiary. Notwithstanding anything contained herein, this Deed of Trust is only intended as security for the Obligations and Beneficiary shall not be obligated to perform or discharge, and Beneficiary need not perform or discharge, any obligation, duty or liability of Grantor with respect to any of the Mortgaged Property. Beneficiary shall not have responsibility for the control, care, management or repair of the Premises nor shall Beneficiary be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Mortgaged Property resulting in loss or injury or death to any licensee, employee, tenant or stranger. No liability shall be enforced or asserted against Beneficiary in its exercise of the powers herein granted to it, and Grantor expressly waives and releases any such liability. Should Beneficiary or any Person exercising rights on its behalf incur any such liability, loss or damage, under or by reason hereof, or in the defense of any claims or demands, Grantor agrees to reimburse Beneficiary and such Person, immediately upon demand (provided such demand is accompanied by an itemized statement) for the amount thereof, including costs, expenses and reasonable attorneys' fees, and any such obligations of Grantor shall be Obligations hereunder and shall survive any foreclosure or transfer in lieu of foreclosure of this Deed of Trust and the release of this Deed of Trust.

SECTION 5.07. Assignment of Leases. (a) Subject to paragraph (d) below, the assignments of the Leases and the Rents under Granting Clauses VI and VII are and shall be present, absolute and irrevocable assignments by Grantor to Beneficiary and, subject to the license to Grantor under Section 5.07(b), Beneficiary or a Receiver appointed pursuant to Section 5.05(d) (as the case may be as the Person exercising the rights under this Section) shall have the absolute, immediate and continuing right to collect and receive all Rents now or hereafter, including during any period of redemption, accruing with respect to the Premises. At the request of Beneficiary or such Receiver,



Grantor shall promptly execute, acknowledge, deliver, record, register and file any additional general assignment of the Leases or specific assignment of any Lease which Beneficiary or such Receiver may require from time to time (all in form and substance reasonably satisfactory to Beneficiary of such Receiver) to effectuate, complete, perfect, continue or preserve the assignments of the Leases and the Rents under Granting Clauses VI and VII.

(b) As long as no Event of Default exists, Grantor shall have the right under a license granted hereby, subject to Section 5.07(c), to collect all Rents upon, but not prior to fifteen (15) days before, the due date thereof.

(c) If any Event of Default exists, Beneficiary or Receiver appointed pursuant to Section 5.05(d) (as the case may be as the Person exercising the rights under this Section) shall have the right to do any of the following: (i) terminate the license granted under Section 5.07(b) by notice to Grantor (ii) exercise the rights and remedies provided under Section 5.04, Section 5.05 or under applicable law; (iii) as attorney in-fact or agent of Grantor, or in its own name as the Person exercising the rights under this Section and under the powers herein granted, hold, operate, manage and control the Premises and all other Mortgaged Property, either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper and necessary to enforce the payment of any Rents, the Leases and other Mortgaged Property relating thereto (including actions for the recovery of Rent, actions in forcible detainer and actions in distress of Rent); (iv) cancel or terminate any Lease or sublease for any cause or on any ground which would entitle Grantor to cancel the same; (v) elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof; and (vi) perform such other acts in connection with the management and operation of the Mortgaged Property as the Person exercising the rights under this Section in its discretion may deem proper, Grantor hereby granting full power and authority to exercise each and every one of the rights, privileges and powers contained herein at any and all times while an Event of Default exists without notice to Grantor.

(d) Nothing in this Section 5.07 shall be construed to be an assumption by the Person exercising the rights under this Section, or to otherwise make such Person liable for the performance, of any of the obligations of Grantor under the Leases.

SECTION 5.08. Sales. Except as otherwise provided herein, to the extent permitted under applicable law, at the election of Beneficiary, the following provisions shall apply to any sale of the Mortgaged Property hereunder, whether made pursuant to the power of sale hereunder, any judicial proceeding, or any judgment or decree of foreclosure or sale or otherwise;

(a) If Beneficiary invokes the power of sale, Beneficiary shall give written notice to Trustee of the occurrence of the Event of Default and of Beneficiary's election to cause the Mortgaged Property to be sold. Trustee and Beneficiary shall give such notices as Washington law may require to Borrower and to all other persons entitled to receive notice under Washington law. After the lapse of such time as may be required by Washington law, Trustee shall sell the Mortgaged Property according to Washington law. Trustee may sell the Mortgaged Property at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Beneficiary or Trustee or the court officer (as the case may be as the Person conducting any sale) may conduct any number of sales as Beneficiary may direct from time to time. The power of sale hereunder or with respect hereto shall not be exhausted by any sale as to any part



or parcel of the Mortgaged Property which is not sold, unless and until the Obligations shall have been paid in full, and shall not be exhausted or impaired by any sale which is not completed or is defective. A sale may be as a whole or in part or parcels and Grantor hereby waives its right to direct the order in which the Mortgaged Property or any part or parcel thereof is sold.

(b) Any sale may be postponed or adjourned for a period or periods not exceeding a total of 30 days by public announcement at the time and place appointed for such sale or such postponed or adjourned sale without further notice.

(c) Any statement of fact or other recital made in any instrument given by the Person conducting any sale as to the nonpayment of any Obligation, the existence of an Event of Default, the amount of the Obligations due and payable, the request to Beneficiary or Trustee to sell, the notice of the time, place and terms of sale and of the Mortgaged Property to be sold having been duly given, or any other act or thing having been duly done or not done by Grantor, Beneficiary, Trustee, or any other Person, shall be taken as conclusive and binding against all other Persons as evidence of the truth of the facts so stated or recited.

(d) Any sale shall operate to divest all of the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Grantor in and to the Mortgaged Property sold, and (to the extent permitted under applicable law) shall be a perpetual bar both at law and in equity against Grantor and any and all Persons claiming such Mortgaged Property or any interest therein by, through or under Grantor.

(e) At any sale, Beneficiary may bid for and acquire the Mortgaged Property sold and, in lieu of paying cash therefor may make settlement for the purchase price by causing the Secured Parties to credit against the Obligations, including the expenses of the sale and the cost of any enforcement proceeding hereunder, the amount of the bid made therefor to the extent necessary to satisfy such bid.

(f) In the event that Grantor or any Person claiming by, through or under Grantor shall transfer or fail to surrender possession of the Mortgaged Property after any sale thereof, then Grantor or such Person shall be deemed tenant at sufferance of the purchaser at such sale, subject to eviction by means of forcible entry and unlawful detainer proceedings, or subject to any other right or remedy available, hereunder or under applicable law.

(g) Upon any sale, it shall not be necessary for the Person conducting such sale to have any Mortgaged Property being sold present or constructively in its possession.

(h) To the extent permitted under applicable law, in the event that a foreclosure hereunder shall be commenced by Beneficiary or Trustee, Beneficiary or Trustee may at any time before the sale abandon the sale, and may institute suit for the collection of the Obligations or for the foreclosure of this Deed of Trust; or in the event that Beneficiary should institute a suit for collection of the Obligations or the foreclosure of this Deed of Trust, Beneficiary may at any time before the entry of final judgment in said suit dismiss the same and sell the Mortgaged Property in accordance with the provisions of this Deed of Trust.

SECTION 5.09. Application of Proceeds. The proceeds of any sale of any of the Mortgaged Property made pursuant to this Article V shall be applied as follows:



(a) First, to the payment of all costs and expenses incident to the enforcement of this Deed of Trust paid or incurred by Trustee, Beneficiary or the agent for enforcement, protection or collection, including, without limitation, reasonable costs, attorneys' fees, stenographers' fees, costs of advertising, costs of documentary evidence of title (including title search and insurance), all other related charges and costs, and a reasonable compensation to the agents, attorneys and in-house counsel of Trustee, Beneficiary and of agent;

(b) Second, to the payment or prepayment of the Obligations, in such order as Beneficiary shall elect; and

(c) Third, the remainder, if any, shall be paid to Grantor or such other person or persons as may be entitled thereto by law;

provided, however, if applicable law requires such proceeds to be paid or applied in a manner other than as set forth above in this Section 5.09, then such proceeds shall be paid or applied in accordance with such applicable law.

ARTICLE VI

GENERAL

SECTION 6.01. Fixture Filing. To the extent that the Mortgaged Property includes items of personal property which are or are to become fixtures under applicable law, and to the extent permitted under applicable law, the filing of this Deed of Trust in the real estate records of the county in which such Mortgaged Property is located shall also operate from the time of filing as a fixture filing with respect to such Mortgaged Property, and the following information is applicable for the purpose of such fixture filing, to wit:

(a) Name and Address of the Debtor:

NWR Realty LLC
1600 Christensen Road, Suite 101
Seattle, Washington 98188

(b) Name and Address of the Secured Party:

Bank of America, N.A., as Administrative Agent
P.O. Box 40329
Jacksonville, Florida 32203-0329

(c) This financing statement covers goods or items of personal property which are or are to become fixtures upon the Premises.

(d) Name and address of record owners:

NWR Realty LLC



1600 Christensen Road, Suite 101
Seattle, Washington 98188

SECTION 6.02. Defeasance. If all of the Obligations shall have been paid in full, and if Grantor shall have performed and observed all the covenants, obligations and conditions to be performed by Grantor pursuant to the Loan Documents, and each of the Loan Documents shall have been terminated, then this Deed of Trust shall cease, terminate and, thereafter, be of no further force or effect (except as provided in Sections 4.01, 4.02 and 5.06). Upon such termination and Grantor's request, appropriate release shall promptly be made by Beneficiary to the Person or Persons legally entitled thereto at Grantor's expense.

SECTION 6.03. Notices. Each notice, demand or other communication given to Grantor or Beneficiary in connection with this Deed of Trust shall be given in the manner set forth in the Credit Agreement and shall be sent to the addresses shown below or such other addresses which the parties may provide to one another in accordance with the Credit Agreement.

To Beneficiary: Bank of America, N.A.
Mail Code: GA1-006-13-20
600 Peachtree Street, NE
Atlanta, Georgia 30308-2214
Attn: Credit Products Officer, Restaurant Finance Group
Telecopier No.: (404) 607-4075

With a copy to: Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta, Georgia 30326
Attention: Frederick C. C. Boyd, III, Esq.
Telecopy No.: (404) 365-9532

To Grantor: NWR Realty LLC
1600 Christensen Road, Suite 101
Seattle, Washington 98188
Attention: J. David Orem
Telecopy No.: (206) 957-9065

With a copy to: Vandeberg Johnson & Gandara, LLP
1201 Pacific Avenue, Suite 1900
P O Box 1315
Tacoma, WA 98401-1315
Attention: H. Frank Crawford, Esq.
Telecopy No.: (253) 383-6377

SECTION 6.04. Amendments in Writing. No amendment, consent, waiver or supplement in any way affecting Grantor's obligations or Beneficiary's rights under this Deed of Trust shall in any event be effective unless contained in a writing signed by Beneficiary.



SECTION 6.05. Related Swap Contracts. All obligations of the Grantor under Related Swap Contracts to which any Lender or its Affiliates are a party shall be deemed to be liabilities of the Grantor ("Liabilities"), and each Lender or Affiliate of a Lender party to any such Related Swap Contract shall be deemed to be a Secured Party hereunder with respect to such Liabilities; provided, however, that such obligations shall cease to be Liabilities at such time, prior to the Facility Termination Date (as defined below), as such Person (or Affiliate of such Person) shall cease to be a "Lender" under the Credit Agreement.

No Person who obtains the benefit of this Agreement by virtue of the provisions of this Section shall have, prior to the Facility Termination Date, any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Obligations (including the release or modification of any Obligations or security therefor) other than in its capacity as a Lender and only to the extent expressly provided in the Loan Documents. Each Secured Party not a party to the Credit Agreement who obtains the benefit of this Agreement by virtue of the provisions of this Section shall be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of the Credit Agreement, and that with respect to the actions and omissions of the Administrative Agent hereunder or otherwise relating hereto that do or may affect such Secured Party, the Administrative Agent and each of its Related Parties shall be entitled to all the rights, benefits and immunities conferred under Article IX of the Credit Agreement.

"Facility Termination Date" means the date as of which all of the following shall have occurred: (a) the Borrowers shall have permanently terminated the credit facilities under the Loan Documents by final payment in full of all Outstanding Amounts, together with all accrued and unpaid interest and fees thereon; (b) all Commitments shall have terminated or expired; (c) the obligations and liabilities of the Borrower and each other Loan Party under all Related Swap Contracts shall have been fully, finally and irrevocably paid and satisfied in full and the Related Swap Contracts shall have expired or been terminated, or other arrangements satisfactory to the counterparties shall have been made with respect thereto; and (d) the Borrower and each other Loan Party shall have fully, finally and irrevocably paid and satisfied in full all of their respective obligations and liabilities arising under the Loan Documents, including the Obligations (except for future Obligations consisting of continuing indemnities and other contingent Obligations of the Borrower or any Loan Party that may be owing to the Agent, any of its Related Parties or any Lender pursuant to the Loan Documents and expressly survive termination of the Credit Agreement or any other Loan Document).

SECTION 6.06. Governing Law; Construction. This Deed of Trust shall be governed by the law of the state in which the Land is situated.

SECTION 6.07. Successors and Assigns The covenants and agreements of Grantor hereunder, and the provisions hereof affecting Grantor, shall bind Grantor hereunder, its successors and assigns and all Persons claiming by, through or under Grantor and shall inure to the benefit of Grantor and its successors and permitted assigns. The rights and privileges of Beneficiary



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hereunder, and the provisions hereof affecting Beneficiary, shall inure to the benefit of Beneficiary hereunder and its successors and assigns.

SECTION 6.08. Waiver. Grantor waives, on behalf of itself and all Persons now or hereafter interested in the Premises or the other Mortgaged Property, to the fullest extent permitted by applicable law, (i) all rights under all appraisement, homestead, moratorium, valuation, exemption, stay, extension, redemption, single action, election of remedies and marshalling statutes, laws or equities now or hereafter existing, (ii) any benefit of any law providing for the valuation or appraisal of the Premises or the other Mortgaged Property or any part thereof prior to any sale thereof; (iii) after any such sale, claim or exercise any right to redeem the property so sold or any part thereof; (iv) all benefit or advantage of any such law and covenants not to hinder, delay or impede the execution by Beneficiary of any power or remedy herein granted or available at law or in equity, but to suffer and permit the execution of every power and remedy as though no such law existed and (v) any and all requirements that at any time any action may be taken against any other Person. Grantor hereby acknowledges and agrees that no defense based on any of the foregoing will be asserted in any action enforcing this Deed of Trust.

SECTION 6.09. WAIVER OF JURY TRIAL. GRANTOR AND BENEFICIARY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS DEED OF TRUST, THE NOTE OR ANY OTHER LOAN DOCUMENT OR FOR ANY COUNTERCLAIM THEREIN.

SECTION 6.10. No Redemption. Grantor hereby waives, to the fullest extent permitted by applicable law, any and all rights of redemption from sale under any order or decree of foreclosure of this Deed of Trust or under any power contained herein on its own behalf and on behalf of each and every Person acquiring any interest in or title to the Premises subsequent to the date of this Deed of Trust.

SECTION 6.11. Limitation by Law. All rights, remedies and powers provided in this Deed of Trust may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Deed of Trust are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Deed of Trust illegal, invalid, unenforceable, in whole or in part, or not entitled to be recorded, registered, or filed under the provisions of any applicable law.

SECTION 6.12. Beneficiary's Performance If Grantor shall fail to pay or perform any of its obligations herein contained (including, without limitation, payment of expenses of foreclosure and court costs) or under the Loan Documents each with respect to the Mortgaged Property, Beneficiary upon five (5) days prior written notice to Grantor (except as otherwise expressly permitted by any Loan Document in the event of an emergency when no notice need be given) may, but need not, make (or cause to be made) any such payment or perform (or cause to be performed) any such obligation of Grantor hereunder or thereunder (provided Grantor is not contesting such payment or performance in accordance with Section 2.09 and the failure to so perform such obligation would have a Material Adverse Effect), in any form and manner deemed reasonably expedient by Beneficiary as agent or attorney-in-fact of Grantor, and any amount so paid or expended (plus reasonable compensation to Beneficiary for its out-of-pocket and other expenses



(including legal expenses) for each matter for which it acts under this Deed of Trust), with interest thereon at the Default Rate, shall be added to the Obligations and shall be repaid to Beneficiary upon demand. No such action of Beneficiary shall be considered as a waiver of any right accruing to it on account of the occurrence of any default on the part of Grantor under this Deed of Trust, any default, any Event of Default, or any default or event of default under any other Loan Document.

SECTION 6.13. Subrogation. To the extent that Beneficiary, after the date hereof, pays pursuant to the terms of this Deed of Trust any sum due under any provision of law or any instrument or documents creating any lien prior or superior to the lien of this Deed of Trust, Beneficiary shall have and be entitled to a lien on the Mortgaged Property equal in priority to that discharged, and Beneficiary shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence for the benefit of Beneficiary to secure the amount expended by Beneficiary on account of or in connection with such lien.

SECTION 6.14. Conflicting Provisions. To the extent there exists any conflict or inconsistency between the terms of this Deed of Trust and the terms of the Credit Agreement, the terms of the Credit Agreement shall govern.

SECTION 6.15. Counterparts. This Deed of Trust may be executed in any number of identical counterparts, any set of which signed by all the parties hereto shall be deemed to constitute a complete, executed original for all purposes.

SECTION 6.16 Instrument Under Seal. This Deed of Trust is intended to be and shall be construed as an instrument under seal.

SECTION 6.17. State Specific Provisions. In the event of any conflict between the provisions of this Section 6.17 and any other provision of this Deed of Trust, the provisions of this Section 6.17 shall control.

(a) Acceleration; Remedies. At any time during the existence of an Event of Default, Beneficiary, at Beneficiary's option, may declare the Indebtedness to be immediately due and payable without further demand, and may request Trustee to exercise the power of sale and Beneficiary may exercise any other remedies permitted by applicable law or provided in this Deed of Trust or in any other Loan Document. Grantor acknowledges that the power of sale granted in this Deed of Trust may be exercised by Trustee without prior judicial hearing. Grantor has the right to bring an action to assert the non-existence of an Event of Default or any other defense of Grantor to acceleration and sale. Beneficiary shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including attorneys' fees, costs of documentary evidence, abstracts and title reports.

If Beneficiary invokes the power of sale, Beneficiary or Trustee shall mail copies of the notice of sale to Grantor and to other persons prescribed by applicable law in the manner provided by applicable law. Trustee may sell the Mortgaged Property at the time and place and under the terms designated in the notice of sale in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Mortgaged Property to any later time on the same date by public announcement at the time and place of any previously



scheduled sale. Beneficiary or Beneficiary's designee may purchase the Mortgaged Property at any sale.

Trustee shall deliver to the purchaser at the sale, within a reasonable time after the sale, a deed conveying the Mortgaged Property so sold without any covenant or warranty, express or implied. The recitals in Trustee's deed shall be prima facie evidence of the truth of the statements contained in those recitals. Trustee shall apply the proceeds of the sale in the following order: (a) to all costs and expenses of the sale, including Trustee's fees in the amount allowed by applicable law, attorneys' fees and costs of title evidence; (b) to the Obligations in such order as Beneficiary, in Beneficiary's discretion, directs; and (c) the excess, if any, to the person or persons legally entitled to it.

Beneficiary shall have the right on one or more occasions to institute one or more actions or proceedings at law or in equity to enforce the rights and remedies of Beneficiary under this Deed of Trust.

Trustee hereby lets the Mortgaged Property to Grantor until a sale is held under the foregoing provisions or until the occurrence of an Event of Default, upon the following terms and conditions: Grantor, and all persons claiming or possessing the Mortgaged Property or any part thereof by, through or under Grantor, shall pay rent therefore during said term at the rate of one cent (1¢) per month, payable monthly upon demand, and shall surrender immediate peaceable possession of the Mortgaged Property and any and every part thereof sold under the foregoing power of sale to the purchaser at such sale, without notice or demand therefore, and shall and will at once, without notice, surrender possession of the Mortgaged Property and every part thereof in the event Beneficiary shall take charge and enter the Mortgaged Property as provided in this Deed of Trust.

(b) Release. Upon payment of the Indebtedness, Beneficiary shall release the lien of this Deed of Trust. Grantor shall pay Beneficiary's reasonable costs incurred in releasing this Deed of Trust.

(c) Further Assurances for Trustee. Grantor shall execute, acknowledge, and deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements, transfers and assurances as Trustee may require from time to time in order to better assure, grant, and convey to Trustee the rights intended to be granted, now or in the future, to Trustee under this Deed of Trust.

(d) Successor Trustee. Beneficiary, at Beneficiary's option, with or without cause, may from time to time remove Trustee and appoint a successor trustee by an Deed of Trust recorded in the city or county in which this Deed of Trust is recorded. Without conveyance of the Mortgaged Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee in this Deed of Trust and by applicable law. For purposes of this Deed of Trust, the term "Trustee" means the person identified as Trustee in the first paragraph of this Deed of Trust and any successor trustee appointed by Beneficiary pursuant to this Section or otherwise appointed as permitted by law.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]



IN WITNESS WHEREOF, Grantor has duly executed and delivered this Deed of Trust as of the date first written above.

GRANTOR:

NWR REALTY LLC, a Washington limited liability company

By: [Signature]
Name: David W. Ferry
Title: General Manager

STATE OF WASHINGTON)

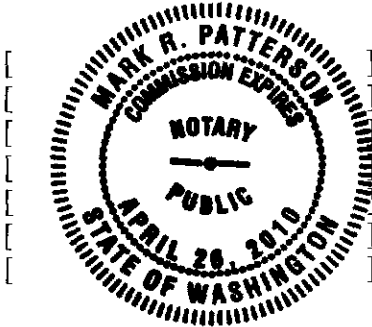
County of Pierce) ss.

On this 3rd day of February, 2010, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared David W. Ferry to me known to be the General Manager of NWR REALTY LLC, a Washington limited liability company, the limited liability company that executed the within and foregoing instrument, and acknowledged 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 is authorized to execute said on behalf of said limited liability company.

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

For recording in the state of Washington, the Notarial Seal must be fully legible and cannot intrude into document margins. Please affix seal in the space provided.

[Signature]
[Print Name] Mark R. Patterson
NOTARY PUBLIC in and for the State of Washington, residing at Tacoma.
My appointment expires: 4-26-2010



Unit:

Unit No. 26650

(formerly Unit No. 20633)

1308 Burlington Blvd

Burlington, Washington 98233

Skagit County

EXHIBIT A

DESCRIPTION OF REAL ESTATE

See attached



Lot 2, BURLINGTON BINDING SITE PLAT NO. 2-97, approved July 14, 1997, recorded December 18, 1997, under Auditor's File No. 9712180060, filed in Volume 13 of Short Plats, pages 67 and 68, being a portion of the Southwest Quarter of the Southwest Quarter of Section 5, Township 34 North, Range 4 East of the Willamette Meridian, more particularly described as follows:

Beginning at the Southwest corner of said Section 5;
thence North on the West subdivision line North $00^{\circ}37'19''$ West a distance of 1187.31 feet;
thence South $89^{\circ}28'22''$ East a distance of 30.00 feet to the East right-of-way of Burlington Boulevard, the true point of beginning;
thence South $89^{\circ}28'22''$ East a distance of 215.04 feet;
thence North $00^{\circ}37'19''$ West a distance of 125.04 feet;
thence North $89^{\circ}28'17''$ West to the East right-of-way of Burlington Boulevard a distance of 215.04 feet;
thence on the East right-of-way of Burlington Boulevard South $00^{\circ}37'19''$ East a distance of 125.05 feet to the true point of beginning.

Situated in Skagit County, Washington



201004280104

Skagit County Auditor

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