

(Skagit)



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Skagit County Auditor

9/10/2010 Page 1 of 27 11:23AM

After recording please return to:

AFTER RECORDING RETURN TO:

First American Title Insurance Company
Attn: Hilda Barbosa
30 N. LaSalle St, Suite 2700
Chicago, IL 60602

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

Grantor(s):

NCS-356934-006
196102/HO

1. Sedro-Woolley Holdings Corporation

Additional names on page _____ of document

Grantee(s):

1. PNC Bank, National Association, as Agent and as Beneficiary
2. Mt. Vernon Abstract & Title Co., Inc., d/b/a Land Title Co. of Skagit County, as Trustee

Additional names on page _____ of document

Abbreviated Legal Description (lot, block and plat name, or section-township-range): Lots 2 through 8, Block 13, "West Addition to the Town of Woolley"

Additional legal description is on Schedule A of document

Assessor's Property Tax Parcel Account Number(s): 4176-013-008-0005 (P77427)

Reference Numbers of Documents Assigned or Released (if applicable):

None.

Additional reference numbers on page _____ of document

SECOND AMENDED AND RESTATED DEED OF TRUST, FIXTURE FILING,
SECURITY AGREEMENT AND
ASSIGNMENT OF LEASES AND RENTS

made by

SEDRO-WOLLEY HOLDINGS CORPORATION, a Washington corporation, Grantor,

to

MT. VERNON ABSTRACT & TITLE CO., INC., D/B/A
LAND TITLE CO. OF SKAGIT COUNTY, trustee for the benefit of

PNC BANK,
NATIONAL ASSOCIATION

as Agent and Beneficiary

Effective as of August 27, 2010

CERTAIN OF THE OBLIGATIONS SECURED BY THIS INSTRUMENT HAVE A VARIABLE INTEREST RATE AND PORTIONS OF SUCH OBLIGATIONS INCLUDE A REVOLVING LINE OF CREDIT. THIS INSTRUMENT SECURES FUTURE ADVANCES WHETHER OR NOT SUCH ADVANCES ARE: (A) OBLIGATORY OR OPTIONAL; (B) MADE BEFORE OR AFTER DEFAULT, MATURITY OR OTHERWISE; AND/OR (C) MADE AS LOAN ADVANCES, ADVANCES TO PROTECT COLLATERAL OR OTHERWISE. ALL SUCH FUTURE ADVANCES SHALL BE SECURED BY THIS INSTRUMENT TO THE SAME EXTENT AND WITH THE SAME PRIORITY AND EFFECT AS IF THE SAME WERE MADE AND OUTSTANDING ON THE DATE HEREOF AND EVEN IF NO PRINCIPAL AMOUNT IS OUTSTANDING ON THE DATE HEREOF OR ON ANY ONE OR MORE LATER DATES.

A CARBON, PHOTOGRAPHIC, FACSIMILE, OR OTHER REPRODUCTION OF THIS INSTRUMENT IS SUFFICIENT AS A FINANCING STATEMENT.

THIS INSTRUMENT CONTAINS AFTER-ACQUIRED PROPERTY PROVISIONS, SECURES PAYMENT OF FUTURE ADVANCES, AND COVERS PROCEEDS OF COLLATERAL.

THIS INSTRUMENT COVERS GOODS WHICH ARE OR ARE TO BECOME FIXTURES ON THE REAL/IMMOVABLE PROPERTY DESCRIBED HEREIN, AND IT IS TO BE FILED FOR RECORD AS A FIXTURE FILING, AMONG OTHER PLACES, IN THE REAL ESTATE RECORDS OF THE COUNTIES LISTED ON SCHEDULE A HERETO.

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Skagit County Auditor

For purposes of filing this Security Instrument as a financing statement, the mailing address of the Grantor is c/o Maxum Petroleum, Inc., 20 Horseneck Lane, Greenwich, Connecticut 06830, the State of its organization is Washington; the mailing address of the Beneficiary is c/o PNC Business Credit, 2100 Ross Avenue, Suite 1850, Dallas, Texas 75201.

ATTENTION RECORDING OFFICER: This instrument is a mortgage of both real and personal property and is, among other things, a Security Agreement and Financing Statement under the Uniform Commercial Code.



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

THIS SECOND AMENDED AND RESTATED DEED OF TRUST, FIXTURE FILING, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS ("Security Instrument"), effective as of August 27, 2010 and executed August 26, 2010 is made by SEDRO-WOOLLEY HOLDINGS CORPORATION, a Washington corporation (the "Grantor"), whose address is c/o Maxum Petroleum, Inc., 20 Horseneck Lane, Greenwich, Connecticut 06830, to MT. VERNON ABSTRACT & TITLE CO., INC., D/B/A LAND TITLE CO. OF SKAGIT COUNTY, a Washington corporation, as Trustee (the "Trustee"), whose address is 111 E. George Hopper Rd., P. O. Box 445, Burlington, WA 98233, for the benefit of PNC BANK, NATIONAL ASSOCIATION, as Agent for the Lenders (as hereinafter defined) (in such capacity, the "Beneficiary"), whose address is c/o PNC Business Credit, 2100 Ross Avenue, Suite 1850, Dallas, Texas 75201. References to this "Security Instrument" shall mean this instrument and any and all renewals, restatements, modifications, amendments, supplements, extensions, consolidations, substitutions, spreaders and replacements of this instrument.

Background

A. The Grantor and the other Borrowers (as defined in the Original Loan Agreement (as hereinafter defined)) party thereto, PNC Bank, National Association ("PNC Bank") and the several banks and other financial institutions or entities from time to time parties thereto (the "Original Lenders"), PNC Bank, as agent for the Original Lenders, JPMorgan Chase Bank, N.A., as documentation agent, and PNC Capital Markets LLC and J.P. Morgan Securities Inc., as co-lead arrangers and joint bookrunners, are parties to that certain Revolving Credit and Security Agreement, dated September 18, 2006 (i) as amended by (a) that certain First Amendment to Revolving Credit and Security Agreement, dated October 26, 2006, (b) that certain Second Amendment to Revolving Credit and Security Agreement, dated May 1, 2007, (c) that certain Third Amendment to Revolving Credit and Security Agreement, dated October 17, 2007, and (d) that certain Fourth Amendment to Revolving Credit and Security Agreement, dated December 4, 2007, and (ii) as amended and restated by that certain First Amended and Restated Revolving Credit, Term Loan and Security Agreement, dated January 30, 2009, as amended by (a) that certain First Amendment to First Amended and Restated Revolving Credit, Term Loan and Security Agreement, dated December 3, 2009 and (b) that certain Second Amendment to First Amended and Restated Revolving Credit and Security Agreement, dated March 4, 2010 (as amended and amended and restated, the "Original Loan Agreement").

B. As security for the obligations of the Grantor under the Original Loan Agreement, the Grantor executed and delivered to Beneficiary that certain Second Lien Deed of Trust, Fixture Filing, Security Agreement and Assignment of Leases and Rents, dated as of September 18, 2006, and recorded in the office of the Recorder of Deeds of Skagit County, Washington at recording number 200704020231, (i) as amended by (a) that certain First

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Modification to Second Lien Deed of Trust, Fixture Filing, Security Agreement and Assignment of Leases and Rents, dated April 30, 2007, and recorded in the office of the Recorder of Deeds of Skagit County, Washington on June 7, 2007, at recording number 200706070054, and (b) that certain Second Modification to Second Lien Deed of Trust, Fixture Filing, Security Agreement and Assignment of Leases and Rents, dated January 23, 2008, and recorded in the office of the Recorder of Deeds of Skagit County, Washington on February 19, 2008, at recording number 200802190152, and (ii) as amended and restated by that certain First Amended and Restated Deed of Trust, Fixture Filing, Security Agreement and Assignment of Leases and Rents, dated effective January 30, 2009, and recorded in the office of the Recorder of Deeds of Skagit County, Washington on February 5, 2009, at recording number 200902050082 (as amended and amended and restated, the "Original Security Instrument").

C. The Borrowers have requested that the Original Lenders amend and restate the Original Loan Agreement pursuant to that certain Second Amended and Restated Revolving Credit and Security Agreement, dated August 27, 2010, by and among the Grantor and the other Borrowers (as defined in the Loan Agreement (as hereinafter defined)) party thereto, certain Guarantors (as defined in the Loan Agreement (as hereinafter defined)) party thereto, PNC Bank and the various other financial institutions from time to time party thereto (PNC Bank and such other financial institutions are each, a "Lender" and collectively, the "Lenders"), the Beneficiary, Bank of America, N.A., as joint lead arranger and documentation agent, and PNC Capital Markets LLC, as joint lead arranger and sole bookrunner (as may be further amended, restated, modified or supplemented or restated from time to time, the "Loan Agreement"). The terms of the Loan Agreement are incorporated by reference in this Security Instrument as if the terms thereof were fully set forth herein.

D. Pursuant to the terms and conditions of the Loan Agreement, inter alia, the Lenders have severally agreed to make certain Advances (as defined in the Loan Agreement) and other extensions of credit to Borrowers in the aggregate principal amount not to exceed Three Hundred Fifty Million and 00/100 Dollars (\$350,000,000.00), or such higher amount as a result of Section 2.23 of the Loan Agreement.

E. The Borrowers are members of an affiliated group of companies that includes the Grantor.

F. The Grantor (i) is the owner of the fee simple estate in the parcel(s) of real property described on Schedule A attached hereto (the "Land") and (ii) 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").

G. It is a condition precedent to the obligation of the Lenders to continue to make their respective extensions of credit to the Borrowers under the Loan Agreement that the Grantor shall have executed and delivered this Security Instrument to the Beneficiary for the ratable benefit of the Secured Parties (as hereinafter defined).



Granting Clauses

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor agrees that to secure the payment of the Obligations (as defined in the Loan Agreement),

THE GRANTOR HEREBY IRREVOCABLY GRANTS, BARGAINS, SELLS AND CONVEYS TO THE TRUSTEE, IN TRUST, WITH POWER OF SALE AND RIGHT OF ENTRY, THE FOLLOWING PROPERTY, RIGHTS AND INTERESTS:

- (a) the Land; and
- (b) all right, title and interest the Grantor now has or may hereafter acquire in and to the Improvements or any part thereof and all the estate, right, title, claim or demand whatsoever of the Grantor, in possession or expectancy, in and to the Real Estate or any part thereof; and
- (c) all right, title and interest of the Grantor in, to and under all easements, rights of way, licenses, operating agreements, abutting strips and gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water and flowage rights, development rights, air rights, mineral and soil rights, plants, standing and fallen timber, 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; and
- (d) all of the fixtures, chattels, business machines, machinery, apparatus, equipment, furnishings, fittings, appliances 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 the 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 screens, awnings, shades, blinds, curtains, draperies, artwork, carpets, rugs, storm doors and windows, furniture and furnishings, heating, electrical, and mechanical equipment, lighting, switchboards, plumbing, ventilating, air conditioning and aircooling apparatus, refrigerating and incinerating equipment, escalators, elevators, loading and unloading equipment and systems, stoves, ranges, laundry equipment, cleaning systems (including window cleaning apparatus), telephones, communication systems (including satellite dishes and antennae), televisions, 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 (d) being referred to as the "Equipment"); and



(e) all right, title and interest of the 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 the Grantor or constructed, assembled or placed by the 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 deed, conveyance, assignment or other act by the Grantor; and

(f) all right, title and interest of the 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 the 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 the 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 Mortgaged Property (as hereinafter defined) (collectively, the "Rents"); and

(g) all unearned premiums under insurance policies now or subsequently obtained by the Grantor relating to the Real Estate or Equipment and the Grantor's interest in and to all proceeds of any such insurance policies (including title insurance policies) including the right to collect and receive such proceeds, subject to the provisions relating to insurance generally set forth below; 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; and

(h) to the extent not prohibited under the applicable contract, consent, license or other item unless the appropriate consent has been obtained, all right, title and interest of the Grantor in and to (i) all contracts from time to time executed by the 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 and options 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; and

(i) 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 the Grantor and described in the foregoing clauses (a) through (c) are collectively referred to as the "Premises", and those described in the foregoing clauses (a) through (i) are collectively referred to as the "Mortgaged Property").

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

This Security Instrument covers present and future advances and re-advances, in the aggregate amount of the obligations secured hereby, made by the Secured Parties for the benefit of the Grantor, and the Lien (as defined in the Loan Agreement) of such future advances and re-advances shall relate back to the date of the Original Security Instrument.

Terms and Conditions

The Grantor further represents, warrants, covenants and agrees with the Beneficiary and the Secured Parties as follows:

1. Defined Terms.

Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement. References herein to the "Secured Parties" shall mean the collective reference to (i) the Beneficiary, (ii) the Lenders, (iii) any other holders from time to time of the Obligations, and (iv) the respective successors, endorsees, and the permitted transferees and assigns of each of the foregoing.

2. Warranty of Title.

The Grantor warrants that it has good and marketable title in fee simple to the Real Estate, and good title to the rest of the Mortgaged Property, subject only to (i) the matters that are set forth in Schedule B of the title insurance policy or policies, if any, being issued to the Beneficiary to insure the Lien of this Security Instrument, and (ii) Permitted Encumbrances. The Grantor shall warrant, defend and preserve such title and the Lien of this Security Instrument against all claims of all persons and entities (not including the holders of the Permitted Encumbrances).

3. Payment of Obligations.

The Grantor shall pay and perform the Obligations at the times and places and in the manner specified in the Loan Documents.



4. Requirements.

The Grantor shall comply with all covenants, restrictions and conditions now or later of record which may be applicable to any of the Mortgaged Property, or to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair or reconstruction of any of the Mortgaged Property, except where a failure to do so could not reasonably be expected to have a material adverse effect (considered both individually and together with other such failures) on (i) the current business, operations or condition (financial or otherwise) of the Grantor, (ii) the current use of the Mortgaged Property or (iii) the value of the Mortgaged Property (assuming its current use).

5. Payment of Taxes and Other Impositions.

(a) Prior to the date on which any fine, penalty, interest or cost may be added thereto or imposed, the Grantor shall pay and discharge all taxes, charges and assessments of every kind and nature, all charges for any easement or agreement maintained for the benefit of any of the Premises, 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, together with any penalties or interest on any of the foregoing (all of the foregoing are collectively referred to herein as the "Impositions"), except where (i) the validity or amount thereof is being contested in good faith by appropriate proceedings, and (ii) the Grantor has set aside on its books adequate reserves with respect thereto in accordance with GAAP. Upon request by the Beneficiary, the Grantor shall deliver to the Beneficiary evidence reasonably acceptable to the Beneficiary showing the payment of any such Imposition. If by law any Imposition, at the Grantor's option, may be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), the 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 the Beneficiary under this Security Instrument or otherwise, without notice or demand to the Grantor, after the occurrence and during the continuance of an Event of Default, to pay any Imposition after the date such Imposition shall have become delinquent, and add to the Obligations the amount so paid, together with interest from the time of payment at the Default Rate with respect to Revolving Advances consisting of Domestic Rate Loans. Any sums paid by the Beneficiary in discharge of any Impositions shall be (i) a Lien on the Premises secured hereby prior to any right or title to, interest in, or claim upon the Premises subordinate to the Lien of this Security Instrument, and (ii) payable on demand by the Grantor to the Beneficiary together with interest at the Default Rate with respect to Revolving Advances consisting of Domestic Rate Loans.

6. Insurance.

(a) The Grantor shall maintain, with financially sound and reputable companies, insurance policies (i) insuring the Real Estate against loss by fire, explosion, theft



and such other casualties as may be reasonably satisfactory to the Beneficiary, and (ii) insuring the Grantor, the Beneficiary and the other Secured Parties against liability for personal injury and property damage relating to such Real Estate, such policies to be in such form and amounts and having such coverage as may be reasonably satisfactory to the Beneficiary. All such insurance shall (i) provide that no cancellation, material reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days after receipt by the Beneficiary of written notice thereof, (ii) name the Beneficiary as mortgagee, lender loss payee and additional insured, as applicable, and (iii) include deductibles consistent with past practice or consistent with industry practice or otherwise reasonably satisfactory to the Beneficiary.

(b) If any portion of the Premises is located in an area identified as a special flood hazard area by the Federal Emergency Management Agency or other applicable agency, the Grantor shall maintain or cause to be maintained, flood insurance in an amount reasonably satisfactory to the Beneficiary, but in no event less than the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended.

(c) The Grantor promptly shall comply with and conform in all material respects to (i) all provisions of each such insurance policy, and (ii) all requirements of the insurers applicable to the Grantor or to any of the Mortgaged Property or to the use, manner of use, occupancy, possession, operation, maintenance, alteration or repair of any of the Mortgaged Property. The Grantor shall not use or permit the use of the Mortgaged Property in any manner which would permit any insurer to cancel any insurance policy or void coverage required to be maintained by this Security Instrument.

(d) If the Grantor is in default of its obligations to insure or deliver any such prepaid policy or policies, then the Beneficiary, at its option upon fifteen (15) days' notice to the Grantor, may effect such insurance from year to year at rates substantially similar to the rate at which the Grantor had insured the Premises, and pay the premium or premiums therefor, and the Grantor shall pay to the Beneficiary on demand such premium or premiums so paid by the Beneficiary with interest from the time of payment at the Default Rate with respect to Revolving Advances consisting of Domestic Rate Loans.

(e) In the event of foreclosure of this Security Instrument or other transfer of title to the Mortgaged Property, all right, title and interest of the Grantor in and to any insurance policies then in force shall pass to the purchaser or grantee.

7. Restrictions on Liens and Encumbrances.

Except for the Lien of this Security Instrument and the Permitted Encumbrances, the Grantor shall not further mortgage, nor otherwise encumber the Mortgaged Property nor create or suffer to exist any Lien, charge or encumbrance on the Mortgaged Property, or any part thereof, whether superior or subordinate to the Lien of this Security Instrument.



8. Due on Sale and Other Transfer Restrictions.

Except as expressly permitted under Section 7.1 of the Loan Agreement, the Grantor shall not sell, transfer, convey or assign all or any portion of, or any interest in, the Mortgaged Property.

9. Condemnation/Eminent Domain.

Promptly upon obtaining knowledge of the institution of any proceedings for the condemnation of the Mortgaged Property, or any material portion thereof, the Grantor will notify the Beneficiary of the pendency of such proceedings.

10. Leases.

Except as expressly permitted under the Loan Agreement, the Grantor shall not (a) execute an assignment or pledge of any Lease relating to all or any portion of the Mortgaged Property other than in favor of the Beneficiary, or (b) execute or permit to exist any Lease of any of the Mortgaged Property.

11. Further Assurances.

To further assure the Beneficiary's rights under this Security Instrument, the Grantor agrees promptly upon demand of the Beneficiary 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 Mortgaged Property and a separate assignment of each Lease in recordable form) as may be reasonably required by the Beneficiary to confirm the Lien of this Security Instrument and all other rights or benefits conferred on the Beneficiary by this Security Instrument.

12. Beneficiary's Right to Perform.

If the Grantor fails to perform any of the covenants or agreements of the Grantor, within the applicable grace period, if any, provided for in the Loan Agreement, Beneficiary, without waiving or releasing the Grantor from any obligation or default under this Security Instrument, may, at any time upon ten (10) days' notice to the Grantor (but shall be under no obligation to) pay or perform the same, and the amount or cost thereof, with interest at the Default Rate with respect to Revolving Advances consisting of Domestic Rate Loans, shall immediately be due from the Grantor to the Beneficiary and the same shall be secured by this Security Instrument and shall be a Lien on the Mortgaged Property prior to any right, title to, interest in, or claim upon the Mortgaged Property attaching subsequent to the Lien of this Security Instrument. No payment or advance of money by the Beneficiary under this Section shall be deemed or construed to cure the Grantor's default or waive any right or remedy of the Beneficiary.



13. Remedies.

(a) Upon the occurrence and during the continuance of any Event of Default, the Beneficiary may immediately take such action, personally or by its agents, servants or attorneys, or through the Trustee or a court-appointed receiver, with or without entry, and without notice or demand, as it deems advisable to protect and enforce its rights against the Grantor and in and to the Mortgaged 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 the Beneficiary may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of the Beneficiary:

(i) The Beneficiary may, to the extent permitted by applicable law, (A) declare the entire balance of the Obligations (including the entire principal balance thereof, all accrued and unpaid interest, and all other such sums secured hereby) to be immediately due and payable and upon any such declaration the entire unpaid balance of the Obligations shall become and be immediately due and payable without presentment, demand, protest or further notice of any kind, (B) institute and maintain an action of mortgage foreclosure against all or any part of the Mortgaged Property, (C) institute and maintain an action on the Loan Agreement or any other Loan Document, (D) cause all or part of the Mortgaged Property to be sold under the power of sale granted by this Security Instrument or any of the other Loan Documents in any manner permitted by applicable law, or (E) take such other action at law or in equity for the enforcement of this Security Instrument or any of the Loan Documents as the law may allow. The 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 with respect to Revolving Advances consisting of Domestic Rate Loans and all costs of suit, including, without limitation, reasonable attorneys' fees and disbursements. Interest at the Default Rate with respect to Revolving Advances consisting of Domestic Rate Loans shall be due on any judgment obtained by the Beneficiary from the date of judgment until actual payment is made of the full amount of the judgment;

(ii) On the occurrence of an Event of Default, acceleration and written request of the Beneficiary, the Trustee shall sell the Real Estate in accordance with the applicable law of the state in which the Real Estate is located, at public auction to the highest bidder. The Mortgaged Property may be sold separately or as a whole, at the option of the Beneficiary. If portions of the Real Estate are situated in different counties, the Grantor agrees that a sale by the Trustee of all or any part of the Real Estate may be held in a single county provided all notices required to be posted are posted on the Real Property in each county and that all notices required to be published are published in each county. Any person permitted by law may bid at the Trustee's sale. If the Beneficiary is the purchaser at a foreclosure sale, the



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Beneficiary shall be entitled to a credit against the purchase price in an amount equal to the lesser of (i) the full amount secured by this Security Instrument as of the date of the sale, or (ii) the purchase price. The Trustee shall apply the proceeds of any sale, first, to the expenses of sale, including the cost of guaranty of title and a reasonable Trustee's fee and the Trustee's attorneys' fees and, second, to the Obligations and any other indebtedness (including without limitation attorneys' fees) secured by this Security Instrument; and the surplus, if any, shall be distributed in accordance with applicable law. The Trustee shall deliver to the purchaser at the sale of the Real Estate its deed, without warranty, which shall convey to the purchaser the interest in the Real Estate which the Grantor had or had the power to convey at the time of its execution of this Security Instrument, and such as it may have acquired thereafter. The Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and this Security Instrument, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of *bona fide* purchasers and encumbrancers for value.

At the request of the Beneficiary, the Trustee shall sell the personal property portion of the Mortgaged Property at a public sale at the same time and place as the sale of the Real Estate; or the Beneficiary may sell the personal property portion of the Mortgaged Property at one or more other public or private sales in accordance with the applicable Uniform Commercial Code. The personal property shall not be required to be exhibited, presented or displayed at any sale. In the event of a Trustee's sale of all the Mortgaged Property, the Beneficiary hereby assigns its security interest in the personal property portion of the Mortgaged Property to the Trustee. The Grantor agrees that a sale by the Trustee and the notices required under the deed of trust laws, or any other state or federal law governing disposition of collateral after default, are commercially reasonable and adequate under the Uniform Commercial Code.

The power of sale conferred by this Security Instrument and by applicable law is not an exclusive remedy, and when not being exercised, the Beneficiary may foreclose this Security Instrument as a mortgage and the Grantor shall pay all costs incurred the by Beneficiary in any suit, or appeal therefrom, brought by the Beneficiary to foreclose this Security Instrument, including without limitation costs of guaranty of title and reasonable attorneys' fees. The Trustee is not obligated to notify any party hereto of a pending sale under any other deed of trust or of any action or proceeding in which the Grantor, the Trustee or the Beneficiary shall be a party, unless such action or proceeding is brought by the Trustee. The Beneficiary may at any time discharge the Trustee and appoint a successor Trustee, who shall have all of the powers of the original Trustee.

If the Beneficiary elects to enforce this Security Instrument by having the



Trustee exercise its power of sale, the Grantor hereby expressly waives to the fullest extent permitted by law any right to a judicial hearing prior to the sale of the Mortgaged Property. As often as any proceedings may be taken to foreclose this Security Instrument, whether pursuant to the Power of Sale herein conferred or by judicial proceedings, or to foreclose the security interest herein granted to the Beneficiary, the Grantor agrees to pay to the Beneficiary, in addition to all other sums due, all costs and expenses, including reasonable attorney fees, incurred by the Beneficiary;

(iii) Notwithstanding any provision contained in the Security Instrument to contrary, if the Beneficiary institutes judicial proceedings to foreclose this Security Instrument, the Grantor hereby waives or does not waive, at the sole option of the Beneficiary, to the extent permitted by applicable law, appraisement of the Mortgaged Property, said option to be exercised by the Beneficiary at or prior to the time judgment is rendered in such judicial foreclosure; and

(iv) The Beneficiary may personally, or by its agents, attorneys and employees and without regard to the adequacy or inadequacy of the Mortgaged Property or any other collateral as security for the Obligations enter into and upon the Mortgaged Property and each and every part thereof and exclude the Grantor and its agents and employees therefrom without liability for trespass, damage or otherwise (the Grantor hereby agreeing to surrender possession of the Mortgaged Property to Beneficiary upon demand at any such time) and use, operate, manage, maintain and control the Mortgaged Property and every part thereof. Following such entry and taking of possession, the Beneficiary shall be entitled, without limitation, (x) to lease all or any part or parts of the Mortgaged Property for such periods of time and upon such conditions as the 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 Mortgaged Property as the Beneficiary shall deem appropriate as fully as the Grantor might do.

(b) In case of a foreclosure sale, the Real Estate may be sold, at the Beneficiary's election, in one parcel or in more than one parcel and the 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 Mortgaged Property to be held.

(c) In the event of any breach of any of the covenants, agreements, terms or conditions contained in this Security Instrument beyond the applicable notice and grace period, if any, and notwithstanding to the contrary any exculpatory or non-recourse language which may be contained herein, the Beneficiary shall be entitled to enjoin such breach and obtain specific performance of any covenant, agreement, term or condition and the



Beneficiary shall have the right to invoke any equitable right or remedy as though other remedies were not provided for in this Security Instrument.

(d) It is agreed that if an Event of Default shall occur and be continuing, any and all proceeds of the Mortgaged Property received by the Beneficiary shall be held by the Beneficiary for the benefit of the Secured Parties as collateral security for the Obligations (whether matured or unmatured), and shall be applied in the manner set forth in Section 11.5 of the Loan Agreement.

14. Right of the Beneficiary to Credit Sale.

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

15. Appointment of Receiver.

If an Event of Default shall have occurred and be continuing, the Beneficiary as a matter of right and without notice to the Grantor, unless otherwise required by applicable law, and without regard to the adequacy or inadequacy of the Mortgaged Property or any other collateral or the interest of the Grantor therein as security for the Obligations, shall have the right in any action to foreclose this Security Instrument (whether by judicial foreclosure or through the Trustee's exercise of the power of sale herein conferred) to apply to any court having jurisdiction to appoint a receiver or receivers of the Mortgaged Property, without requiring the posting of a surety bond, and without reference to the adequacy or inadequacy of the value of the Mortgaged Property or the solvency or insolvency of the Grantor or any other party obligated for payment of all or any part of the Obligations, and whether or not waste has occurred with respect to the Mortgaged Property, and the 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 the Beneficiary in case of entry as provided in this Security Instrument, including, without limitation and to the extent permitted by law, the right to enter into leases of all or any part of the Mortgaged Property, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Mortgaged Property unless such receivership is sooner terminated.



16. Extension, Release, etc.

(a) Without affecting the Lien or charge of this Security Instrument upon any portion of the Mortgaged Property not then or theretofore released as security for the full amount of the Obligations, the Beneficiary may, from time to time and without notice, agree to (i) release any person liable for the Obligations, (ii) extend the maturity or alter any of the terms of the Obligations, (iii) grant other indulgences, (iv) release or reconvey, or cause to be released or reconveyed at any time at the Beneficiary's option any parcel, portion or all of the Mortgaged Property, (v) take or release any other or additional security for the Obligations, or (vi) make compositions or other arrangements with debtors in relation thereto.

(b) No recovery of any judgment by the Beneficiary and no levy of an execution under any judgment upon the Mortgaged Property or upon any other property of the Grantor shall affect the Lien of this Security Instrument or any Liens, rights, powers or remedies of the Beneficiary hereunder, and such Liens, rights, powers and remedies shall continue unimpaired.

(c) If the Beneficiary shall have the right to foreclose this Security Instrument or to direct the Trustee to exercise the power of sale, the Grantor authorizes the Beneficiary at its option to foreclose or cause the Trustee to foreclose the Lien of this Security Instrument (or direct the sale of the Mortgaged Property, as the case may be) subject to the rights of any tenants of the Mortgaged 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 Mortgaged Property, or to terminate such tenant's rights in such sale will not be asserted by the Grantor as a defense to any proceeding instituted by the Beneficiary to collect the Obligations or to foreclose the Lien of this Security Instrument.

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

17. Security Agreement Under Uniform Commercial Code.

(a) As security for the Obligations, the Grantor hereby grants the Beneficiary a security interest in that portion of the Mortgaged Property that constitutes personal property.

(b) It is the intention of the parties hereto that this Security Instrument shall constitute a security agreement within the meaning of the Uniform Commercial Code (the "Code") of the State of Washington. If an Event of Default shall occur and be continuing under this Security Instrument, then in addition to having any other right or remedy available at law or in equity, the 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 Mortgaged 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 Mortgaged Property in accordance with the 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 the Beneficiary shall elect to proceed under the Code, then fifteen (15) 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 the Beneficiary shall include, but not be limited to, attorneys' fees and legal expenses. At the Beneficiary's request, the Grantor shall assemble the personal property and make it available to the Beneficiary at a place designated by the Beneficiary which is reasonably convenient to both parties.

(c) The Grantor and the Beneficiary agree, to the extent permitted by law, that: (i) certain of the goods described within the definition of the word "Equipment" are or are to become fixtures on the Real Estate; (ii) this Security Instrument upon recording or registration in the real estate records of the proper office shall constitute a financing statement filed as a "fixture filing" pursuant to § 1-9-502(c) of the Code; (iii) the Grantor is the record owner of the Land; and (iv) the addresses of the Grantor, as debtor, and the Beneficiary, as secured party, are as set forth in the Preamble of this Security Instrument.

(d) The real property to which the fixtures relate is described in Schedule A hereto. The record owner of the real property described in Schedule A hereto is the Grantor. The name, type of organization and jurisdiction of organization of the debtor for purposes of this financing statement are the name, type of organization and jurisdiction of organization of the Grantor set forth in the Preamble of this Security Instrument, and the name of the secured party for purposes of this financing statement is the name of the Beneficiary set forth in the Preamble of this Security Instrument. The mailing address of the Grantor/debtor is the address of the Grantor set forth in the Preamble of this Security Instrument. The mailing address of the Beneficiary/secured party from which information concerning the security interest hereunder may be obtained is the address of the Beneficiary set forth in the Preamble of this Security Instrument.

18. Assignment of Rents.

(a) The Grantor hereby assigns to the Beneficiary the Rents as further security for the payment of and performance of the Obligations, and the Grantor grants to the Beneficiary the right to enter the Mortgaged Property for the purpose of collecting the same and to let the Mortgaged 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 fully paid and performed, but the Beneficiary hereby waives the right to enter the Mortgaged Property for the purpose of collecting the Rents and the Grantor shall be entitled to collect, receive, use and retain the Rents until the occurrence of an Event of Default; such right of the Grantor to collect, receive, use and retain the Rents may be



revoked by the Beneficiary upon the occurrence and during the continuance of any Event of Default under this Security Instrument by giving not less than fifteen (15) days' written notice of such revocation to the Grantor; in the event such notice is given, the Grantor shall pay over to the Beneficiary, or to any receiver appointed to collect the Rents, any lease security deposits. The Grantor shall not accept prepayments of installments of Rent to become due for a period of more than one month in advance (except for security deposits and estimated payments of percentage rent, if any).

(b) The Grantor has not affirmatively done any act which would prevent the Beneficiary from, or limit the Beneficiary in, acting under any of the provisions of the foregoing assignment.

(c) Except for any matter disclosed in the Loan Agreement, no action has been brought or, so far as is known to the Grantor, is threatened, which would interfere in any way with the right of the Grantor to execute the foregoing assignment and perform all of the Grantor's obligations contained in this Section and in the Leases.

19. Additional Rights.

The holder of any subordinate Lien or subordinate deed of trust on the Mortgaged Property shall have no right to terminate any Lease whether or not such Lease is subordinate to this Security Instrument nor shall the Grantor consent to any holder of any subordinate Lien or subordinate deed of trust joining any tenant under any Lease in any action to foreclose the Lien or modify, interfere with, disturb or terminate the rights of any tenant under any Lease. By recordation of this Security Instrument all subordinate lienholders and the mortgagees and beneficiaries under subordinate mortgages are subject to and notified of this provision, and any action taken by any such lienholder or beneficiary contrary to this provision shall be null and void. Any such application shall not be construed to cure or waive any Default or Event of Default or invalidate any act taken by the Beneficiary on account of such Default or Event of Default.

20. Notices.

All notices, requests, demands and other communications hereunder shall be given in accordance with the provisions of Section 16.6 of the Loan Agreement to the Grantor and to the Beneficiary as specified therein, provided, that any such notice, request or demand to or upon the Grantor shall be sent to its address set forth above.

21. No Oral Modification.

This Security Instrument may not be amended, supplemented or otherwise modified except in accordance with the provisions of Section 16.2 of the Loan Agreement. Any agreement made by the Grantor and the Beneficiary after the date of this Security Instrument relating to this Security Instrument shall be superior to the rights of the holder of any intervening or subordinate Lien or encumbrance.



22. Partial Invalidity.

In the event any one or more of the provisions contained in this Security Instrument 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 anything to the contrary contained in this Security Instrument or in any provisions of any of the Loan Documents, the obligations of the Grantor and of any other obligor under any Loan Document shall be subject to the limitation that the Beneficiary shall not charge, take or receive, nor shall the Grantor or any other obligor be obligated to pay to the Beneficiary, any amounts constituting interest in excess of the maximum rate permitted by law to be charged by the Beneficiary.

23. Grantor's Waiver of Rights.

To the fullest extent permitted by law, the Grantor waives the benefit of all laws now existing or that may subsequently be enacted providing for 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 Obligations and (iii) exemption of the Mortgaged Property from attachment, levy or sale under execution or exemption from civil process. To the full extent the Grantor may do so, the Grantor agrees that the 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 Security Instrument before exercising any other remedy granted hereunder and the Grantor, for the Grantor and its successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged 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 (except as expressly provided in the Loan Agreement) or declare due the whole of the Obligations and marshalling in the event of exercise by the Beneficiary of the foreclosure rights, power of sale, or other rights hereby created.

24. Remedies Not Exclusive.

The Beneficiary shall be entitled to enforce payment and performance of the Obligations and to exercise all rights and powers under this Security Instrument 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 deed of trust, mortgage, security agreement, pledge, Lien, assignment or otherwise. Neither the acceptance of this Security Instrument nor its enforcement, shall prejudice or in any manner affect the Beneficiary's rights to realize upon or enforce any other security now or hereafter held by the Beneficiary, it being agreed that the Beneficiary shall be entitled to enforce this Security Instrument and any other security now or hereafter held by the Beneficiary in such order and manner as the Beneficiary may determine in its absolute discretion. No remedy herein conferred upon or reserved to the 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 the Beneficiary or to which it may otherwise be entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by the Beneficiary, as the case may be. In no event shall the Beneficiary, in the exercise of the remedies provided in this Security Instrument (including, without limitation, in connection with the assignment of Rents to the Beneficiary, or the appointment of a receiver and the entry of such receiver on to all or any part of the Mortgaged Property), be deemed a "mortgagee in possession," and the Beneficiary shall not in any way be made liable for any act, either of commission or omission, in connection with the exercise of such remedies.

25. 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 Security Instrument, the Beneficiary shall now or hereafter hold or be the beneficiary of 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 the 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, the Beneficiary may, at its election, commence or consolidate in a single foreclosure action all foreclosure proceedings against all such collateral securing the Obligations (including the Mortgaged 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. The Grantor acknowledges that the right to maintain a consolidated foreclosure action is a specific inducement to the Lenders to continue to make their respective extensions of credit to the Borrowers under the Loan Agreement, and the Grantor to the fullest extent permitted by law 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. The Grantor further agrees that if the Beneficiary shall be prosecuting one or more foreclosure or other proceedings against a portion of the Mortgaged Property or against any collateral other than the Mortgaged Property, which collateral directly or indirectly secures the Obligations, or if the Beneficiary shall have obtained a judgment of foreclosure and sale or similar judgment against such collateral, then, whether or not such proceedings are being maintained or judgments were obtained in or outside the State in which the Premises are located, to the fullest extent permitted by law, (i) the Beneficiary may commence or continue any foreclosure proceedings and exercise its other remedies granted in this Security Instrument against all or any part of the Mortgaged Property and (ii) the Grantor waives any objections to the commencement or continuation of a foreclosure of this Security Instrument 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 Security Instrument or such other proceedings on such basis. The commencement or continuation of proceedings



to foreclose this Security Instrument, the recovery of any judgment by the Beneficiary or the occurrence of any sale in any such proceedings shall not prejudice, limit or preclude the Beneficiary's right to commence or continue one or more foreclosure or other proceedings or obtain a judgment against any other collateral (either in or outside the State in which the Premises are located) which directly or indirectly secures the Obligations, and to the fullest extent permitted by law (i) the Grantor expressly waives any objections to the commencement of, continuation of, or entry of a judgment in such proceedings or the exercise of any remedies in such sales or proceedings based upon any action or judgment connected to this Security Instrument, and (ii) the Grantor also waives any right to seek to dismiss, stay, remove, transfer or consolidate either such sales or proceedings or any other sale or action under this Security Instrument on such basis. It is expressly understood and agreed that to the fullest extent permitted by law, the Beneficiary may, at its election, cause the sale of all collateral which is the subject of a single 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.

26. Successors and Assigns.

All covenants of the Grantor contained in this Security Instrument are imposed solely and exclusively for the benefit of the Beneficiary, and its successors and permitted 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 the Beneficiary at any time in its sole discretion. All such covenants of the Grantor shall run with the land and bind the Grantor, the successors and assigns of the Grantor (and each of them) and all subsequent owners, encumbrancers and tenants of the Mortgaged Property, and shall inure to the benefit of the Beneficiary and its successors and permitted assigns. The word "Grantor" shall be construed as if it read "Grantors" whenever the sense of this Security Instrument so requires and if there shall be more than one Grantor, the obligations of the Grantors shall be joint and several.

27. No Waivers, etc.

Any failure by the Beneficiary to insist upon the strict performance by the Grantor of any of the terms and provisions of this Security Instrument shall not be deemed to be a waiver of any of the terms and provisions hereof, and the Beneficiary, notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by the Grantor of any and all of the terms and provisions of this Security Instrument to be performed by the Grantor. The Beneficiary may release, regardless of consideration and without the necessity for any notice to or consent by the holder of any subordinate Lien on the Mortgaged Property, any part of the security held for the Obligations secured by this Security Instrument without, as to the remainder of the security, in any way impairing or affecting the Lien of this Security Instrument or the priority of such Lien over any subordinate Lien or deed of trust.



28. Governing Law, etc.

This Security Instrument shall be governed by and construed and interpreted in accordance with the laws of the State of Washington, except that the Grantor expressly acknowledges that the Loan Agreement shall be governed and construed in accordance with the laws of the State of New York and for purposes of consistency, the Grantor agrees that in any in personam proceeding related to this Security Instrument the rights of the parties to this Security Instrument 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.

29. Certain Definitions.

Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument shall be used interchangeably in singular or plural form and the word "Grantor" shall mean "each Grantor or any subsequent owner or owners of the Mortgaged Property or any part thereof or interest therein," the word "Beneficiary" shall mean "the Beneficiary or any successor agent for the Lenders," the word "person" shall include any individual, corporation, partnership, limited liability company, trust, unincorporated association, government, governmental authority, or other entity, and the words "Mortgaged Property" shall include any portion of the Mortgaged 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 Security Instrument are for convenience or reference only and in no way limit or amplify the provisions hereof.

30. Last Dollars Secured; Priority.

To the extent that this Security Instrument secures only a portion of the Obligations owing or which may become owing by the Grantor to the Secured Parties, the parties agree that any payments or repayments of such Obligations shall be and be deemed to be applied first to the portion of the Obligations that are not secured hereby, it being the parties' intent that the portion of the Obligations last remaining unpaid shall be secured hereby. If at any time this Security Instrument 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 Security Instrument until the Lien amount shall equal the principal amount of the Obligations outstanding.

31. Release.

If any of the Mortgaged Property shall be sold, transferred or otherwise disposed of by the Grantor in a transaction permitted by the Loan Agreement, then the Beneficiary, at the request and sole expense of the Grantor, shall execute and deliver to the Grantor all releases or other documents reasonably necessary or desirable for the release of the Liens created hereby on such Mortgaged Property. The Grantor shall deliver to the



Beneficiary, at least five (5) Business Days prior to the date of the proposed release, a written request for release identifying the sale or other disposition in reasonable detail, including the price thereof and any expenses in connection therewith, together with a certification by the Grantor stating that such transaction is in compliance with, and permitted by, the Loan Agreement and the other Loan Documents.

32. Conflict with Loan Agreement.

In the event of any conflict or inconsistency between the terms and provisions of this Security Instrument and the terms and provisions of the Loan Agreement, the terms and provisions of the Loan Agreement shall govern, other than with respect to the Section of this Security Instrument captioned "Governing Law, etc."

33. Future Advances.

This Security Instrument is executed and delivered to secure, among other things, future advances. It is understood and agreed that this Security Instrument secures present and future advances made for the benefit of the Grantor and that the Lien of such future advances shall relate back to the date of the Original Security Instrument.

34. Non Agricultural Use.

The Mortgaged Property is not used principally for agricultural purposes.

35. Reconveyance.

Upon payment of all sums secured by this Security Instrument, the Beneficiary shall request the Trustee to reconvey the Mortgaged Property and shall surrender this Security Instrument and all notes evidencing indebtedness secured by this Security Instrument to the Trustee. The Trustee shall reconvey the Mortgaged Property without warranty to the person or persons legally entitled thereto. Such person or persons shall pay the Trustee's reasonable costs incurred in so reconveying the Mortgaged Property.

36. Commercial Loan.

This Security Instrument was granted to secure a commercial loan. The Grantor represents and warrants that the proceeds of the Loan shall be used for business or commercial purposes and not for personal, family or household purposes.

37. Amendment and Restatement.

This Security Instrument amends and restates the Original Security Instrument and is not a novation thereof.




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

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IN WITNESS WHEREOF, and intending to be legally bound, this Security Instrument has been duly executed by the Grantor effective as of the date set forth above.

SEDRO-WOOLLEY HOLDINGS
CORPORATION

By: 
Name: Belinda Foxworth
Title: Secretary

{01151841}



201009100058
Skagit County Auditor

ACKNOWLEDGEMENT

STATE OF WASHINGTON)

COUNTY OF Fairfield)

ss:

On this 26th day of August, 2010, before me personally appeared Belinda Foxworth, to me known to be the Secretary of Sedro-Woolley Holdings Corporation, a Washington corporation, the corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, an on oath stated that she was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



Signature of Notary

YOUSSEF KHAMMOUCH
NOTARY PUBLIC
MY COMMISSION EXPIRES JUNE 30, 2014

ct
Legibly Print or Stamp Name of Notary

Notary public in and for the state of Washington,
residing at _____

My appointment expires: _____



Schedule A

Description of the Land

Lots 2 through 8, inclusive, Block 13, "WEST ADDITION TO THE TOWN OF WOOLLEY, SKAGIT COUNTY, WASH.," as per plat recorded in Volume 2 of Plats, page 89, records of Skagit County, Washington.

Situate in the City of Sedro Woolley, County of Skagit, State of Washington.

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Skagit County Auditor

9/10/2010 Page

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