



201407020019

Skagit County Auditor

\$76.00

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5 10:35AM

Recording Requested By,
And After Recording, Return To:
WELLS FARGO BANK,
NATIONAL ASSOCIATION
1451 THOMAS LANGSTON ROAD
D1644-018
WINTERVILLE, NORTH CAROLINA 28590
Attn: CLS-LDCMR

LEASE SUBORDINATION AGREEMENT
(DEED OF TRUST)

73840.4

GUARDIAN NORTHWEST TITLE CO.

Grantor (Lessee): JERRY L. SMITH, INCORPORATED

Grantee (Bank): WELLS FARGO BANK, NATIONAL ASSOCIATION

modification of DT 201407020018, ORIGINAL DT 200305190202
unrecorded lease

THIS AGREEMENT is entered into as of JUNE 24, 2014, by and between JERRY L. SMITH, INCORPORATED ("Lessee"), and WELLS FARGO BANK, NATIONAL ASSOCIATION ("Bank").

RECITALS

A. Bank has extended credit or may hereafter extend credit to 101 NORTH HILL, LLC ("Borrower") secured, in whole or in part, by a deed of trust (the "Deed of Trust") covering that certain real property situated in SKAGIT County, Washington, and described on Exhibit A attached hereto and incorporated herein by this reference (the "Property").

B. Lessee leases all or a portion of the Property pursuant to a lease entered into between 101 NORTH HILL, LLC ("Lessor") and Lessee dated as of January 1, 2014 (the "Lease"), which Lease has not been recorded. It is a condition of Bank's agreement to extend or continue credit to Borrower secured by the Property that the security of the Deed of Trust be unconditionally and at all times remain a lien or charge upon the Property prior and superior to the rights of Lessee under the Lease.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. SUBORDINATION.

(a) Subordination of Lease. The Deed of Trust and any and all extensions, renewals, modifications or replacements thereof shall be and at all times remain a lien or charge on the Property prior and superior to the Lease. Lessee intentionally and unconditionally waives, relinquishes and subordinates the priority and superiority of the Lease and Lessee's right and interest to the Property thereunder to the lien or charge of the Deed of Trust, and any and all extensions, renewals, modifications or replacements thereof.

(b) Reliance. Lessee acknowledges that Bank, in extending or continuing to extend credit to Borrower secured by the Property is doing so in material reliance on this Agreement.

(c) **Acknowledgments of Lessee.** Lessee acknowledges that it has such information with respect to any credit extended by Bank to Borrower, and all loan documents executed in connection therewith as Lessee deems necessary in order to grant this subordination. Lessee further agrees that Bank is under no obligation or duty to, nor has Bank represented that it has or will, see to the application of the proceeds of any such credit by any person or entity, and any application or use of any such proceeds for purposes other than those for which they were intended shall not defeat this subordination.

(d) **Entire Subordination Agreement.** This Agreement constitutes the whole and only agreement between the parties hereto with regard to the subordination of the Lease to the lien or charge of the Deed of Trust; there are no agreements (written or oral) outside or separate from this Agreement with respect to the subject matter hereof; and all prior negotiations with respect thereto, if any, are merged into this Agreement. This Agreement shall supersede and cancel, but only insofar as would affect the priority between the Deed of Trust and the Lease, any prior agreements as to such subordination, including without limitation those provisions, if any, contained in the Lease which provide for the subordination thereof to the lien of a deed of trust or mortgage affecting all or any portion of the Property.

2. **LEASE.** Lessee hereby covenants and agrees that, so long as the Deed of Trust remains in force and effect:

(a) **No Modification, Termination or Cancellation.** Lessee shall not consent to any modification, termination or cancellation of the Lease without Bank's prior written consent.

(b) **Notice of Default.** Lessee shall notify Bank in writing concurrently with any notice given to Lessor of any breach of or default by Lessor under the Lease. Lessee agrees that Bank shall have the right (but not the obligation) to cure any breach or default specified in such notice within the time periods set forth below, and Lessee shall not declare a default of the Lease, as to Bank, if Bank cures such breach or default within thirty (30) days after the expiration of the time period provided in the Lease for the cure thereof by Lessor; provided however, that if such breach or default cannot with diligence be cured by Bank within such thirty (30) day period, the commencement of action by Bank within such thirty (30) day period to remedy the same shall be deemed sufficient so long as Bank pursues such cure with diligence.

(c) **No Advance Rents.** Lessee shall not make any payments or prepayments of rent more than one (1) month in advance of the time when the same become due under the Lease.

(d) **Assignment of Rents.** Upon receipt by Lessee of written notice from Bank that Bank has elected to terminate the license granted to Lessor to collect rents, as provided in the Deed of Trust, and directing Lessee to make payment thereof to Bank, Lessee shall comply with such direction to pay and shall not be required to determine whether Lessor or Borrower is in default under any obligations to Bank.

3. **NO LIABILITY OF BANK.** Bank shall not be liable to Lessee for any act or omission of any person or entity as a lessor under the Lease, nor for the return of any sums which Lessee may have paid to any other person or entity as a lessor under the Lease as security deposits, advances or otherwise.

4. **ESTOPPEL.** Lessee acknowledges and represents that:

(a) **Lease Effective.** The Lease has been duly executed and delivered by Lessee and, subject to the terms and conditions thereof, the Lease is in full force and effect, the obligations of Lessee thereunder are valid and binding, and there have been no amendments, modifications or additions to the Lease (written or oral), other than those included in the Lease definition set forth above. The Lease constitutes the entire agreement between Lessor and Lessee with respect to the Property, and Lessee claims no rights to the Property other than as set forth in the Lease.



(b) No Default. As of the date hereof and to the best of Lessee's knowledge, (i) there exists no breach of or default under the Lease, nor any condition, act or event which with the giving of notice or the passage of time, or both, would constitute such a breach or default, and (ii) there are no existing claims, defenses or offsets against rental due or to become due under the terms of the Lease.

(c) No Prepaid Rent. No deposits or prepayments of rent have been made in connection with the Lease, except as follows: _____.

5. MISCELLANEOUS.

(a) Remedies Cumulative. All remedies provided herein are cumulative, not exclusive, and shall be in addition to any and all other rights and remedies provided by law and by other agreements between Bank and Borrower, Lessor or any other person or entity.

(b) Costs, Expenses and Attorneys' Fees. If any party hereto institutes any judicial or administrative action or proceeding to enforce any rights or obligations under this Agreement, or seeking damages or any other judicial or administrative remedy, the prevailing party shall be entitled to recover from the other party all costs and expenses, including reasonable attorneys' fees (to include outside counsel fees and all allocated costs of the prevailing party's in-house counsel), whether incurred at the trial or appellate level, in an arbitration proceeding or otherwise, and including any of the foregoing incurred in connection with any bankruptcy proceeding (including without limitation, any adversary proceeding, contested matter or motion brought by Bank or any other person) relating to Borrower, Lessee or any other person or entity.

(c) Notices. All notices, requests and demands which any party is required or may desire to give to any other party under any provision of this Agreement must be in writing delivered to each party at the address set forth below its signature, or to such other address as any party may designate by written notice to all other parties. Each such notice, request and demand shall be deemed given or made as follows: (i) if sent by hand delivery, upon delivery; (ii) if sent by mail, upon the earlier of the date of receipt or three (3) days after deposit in the U.S. mail, first class and postage prepaid; and (iii) if sent by telecopy, upon receipt.

(d) Further Assurances. At the request of any party hereto, each other party shall execute, acknowledge and deliver such other documents and/or instruments as may be reasonably required by the requesting party in order to carry out the purpose of this Agreement, provided that no such document or instrument shall modify the rights and obligations of the parties set forth herein.

(e) Borrower; Lessor. If Borrower and Lessor are the same, each reference in this Agreement to Borrower or Lessor shall be deemed a reference to said person or entity in its respective capacity.

(f) Successors, Assigns; Governing Law. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, legal representatives, successors, assigns and other transferees of the parties hereto, and shall be governed by and construed in accordance with the laws of the State of Washington.

(g) Conflicts. In the event of any inconsistency between the terms of this Agreement and the Lease, the terms of this Agreement shall control.

(h) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute and be construed as one and the same instrument.



IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

LESSEE:

BANK:

JERRY L. SMITH, INCORPORATED

WELLS FARGO BANK
NATIONAL ASSOCIATION

By: [Signature]
Name: JERRY L. SMITH
Title: PRESIDENT

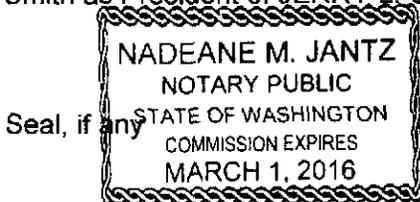
By: [Signature]
Name: ROBERT LAMPSON
Title: VICE PRESIDENT

CORPORATE ACKNOWLEDGMENT
LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

State of WASHINGTON

County of Skagit

This instrument was acknowledged before me on this 24 day of June, 2014, by Jerry L. Smith as President of JERRY L. SMITH, INCORPORATED.



[Signature]
Signature of notarial officer
[Signature]
Title and Rank
My commission expires: 3-1-16

STATE OF WASHINGTON)
County of Skagit) SS.)

I certify that I know or have satisfactory evidence that Robert Lampson is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she is authorized to execute the instrument and acknowledged it as the Vice President of WELLS FARGO BANK, NATIONAL ASSOCIATION to the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

DATED: June 24, 2014

Name (typed or printed): Nadeane M Jantz
NOTARY PUBLIC in and for the State of WASHINGTON
Residing at: ARLINGTON WASH
My appointment expires: 3-1-14

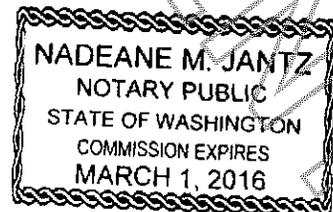


EXHIBIT A
TO
LEASE SUBORDINATION AGREEMENT
(DEED OF TRUST)

Legal Description of Property:

Tract 16, of Burlington Hill Business Park Binding Site Plan, approved September 7, 1994, recorded September 8, 1994, in Volume 11 of Short Plats, Pages 109 through 112, under Auditor's File No. 9409080052, records of Skagit County, Washington, being a portion of the Southwest ¼ of Section 29, Township 35 North, Range 4 East, W.M.



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