

Site No: 02956

FILED FOR RECORD AT THE REQUEST OF:

MaryAnne Telken  
TOSCO MARKETING COMPANY '96 MAY 21 P3:46  
601 Union Street  
Seattle, WA 98101

FIRST AMERICAN TITLE CO.

This Space for Recorder's Use

KATHY [Signature]

'96 MAY 21 P3:37

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**CONSTRUCTION DEED OF TRUST  
Security Agreement and Fixture Filing**

THIS DEED OF TRUST and Security Agreement and Fixture Filing is made May 17, 1996 (the "Deed of Trust") among the following parties:

**GRANTOR:** Skagit Partners III, Inc., a Washington corporation, whose address is 1729 Cedardale Rd., Mt. Vernon, WA 98273.

**TRUSTEE:** First American Title Insurance Company, whose address is P. O. Box 1667, Mt. Vernon, WA 98273; and

**BENEFICIARY:** TOSCO MARKETING COMPANY, a Division of TOSCO CORPORATION, a Nevada corporation, whose address is 601 Union Street, Suite 2500, Seattle, WA 98101.

WITNESSETH:

The Beneficiary is making a construction advance to the Grantor in the amount of \$250,000 (the "Advance"). The will finance only a portion of the construction of improvements thereon.

**1. GRANT**

1.1 Grantor does hereby irrevocably GRANT, BARGAIN, SELL and CONVEY TO TRUSTEE IN TRUST, WITH POWER OF SALE, all of Grantor's interests, estates and claims, both in law or in equity, now owned or hereafter acquired, in and to that property in the County of Skagit, State of Washington, described in **Exhibit A** attached hereto and by this reference incorporated herein, including any Leasehold interests therein held by Grantor, together with any and all buildings and improvements now or hereafter erected thereon, including, but not limited to, the fixtures, attachments, appliances, equipment, machinery, and other articles attached to such buildings and improvements, which are herein collectively called the "Property";

Together with all interests, estate or other claims, both in law and in equity, which Grantor now has or may hereafter acquire in the Property;

Together with all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto, and all water rights and shares of stock evidencing the same;

Together with all right, title and interest of Grantor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed, adjacent to or used in connection with the Property;

Together with all right, title and interest of Grantor in and to all tangible personal property (the "Personal Property") now or hereafter owned by Grantor and now or at any time hereafter located on or at the Property or used in connection therewith, including but not limited to, all goods, machinery, tools, insurance proceeds, equipment, all inventory related to the operation of the Property and any business operated thereon by Grantor, lighting fixtures and office maintenance and other supplies and all proceeds thereof;

Together with all the estate, interest, right, title, other claim or demand, including claims or

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demands with respect to the proceeds of insurance in effect with respect thereto, which Grantor now has or may hereafter acquire in the Property and any and all awards made for the taking by eminent domain or by any proceedings or purchase in lieu thereof of the whole or any part of the Property;

Together with any and all existing and future leases (including subleases thereof), whether written or oral, rental agreements and all future agreements for use and occupancy, and any and all extensions, renewals and replacements thereof, upon all or relating to any part of the Property (hereinafter collectively referred to as the "Leases"); and any and all guaranties of tenant's performance under any and all of the Leases;

Together with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues, profits and other income of any nature now due or which may become due or to which Grantor may now or shall hereafter become entitled to or may make demand or claim for, arising or issuing from or out of the Leases or from or out of the Property or any part thereof, including but not limited to, all accounts receivable, instruments, and general intangibles related to the operation of the Property and any business operated thereon by Grantor and all proceeds thereof, (all such moneys rights and claims described in this paragraph being hereinafter called "Cash Collateral") excepting therefrom, any sums which by the express provisions of any of the Leases are payable directly to any governmental authority or to any other person, firm or corporation other than the landlord under the Leases;

Together with all additions, accessions, replacements, substitutions proceeds and products of the property described herein;

The entire estate, property, and interest hereby conveyed to Trustee may hereafter be referred to as the "Subject Property".

## **2. FOR THE PURPOSE OF SECURING**

2.1 Payment of indebtedness in the principal amount of \$250,000 with interest thereon, evidenced by the certain Amortization Agreement dated May 17, 1996 between Grantor and Beneficiary (the "Amortization Agreement") which by reference is made a part hereof, and any and all modifications, extensions and renewals thereof. The interest rate, payment terms or the balance due on the Amortization Agreement and the indebtedness evidenced thereby may be indexed, adjusted, renewed, or renegotiated without affecting the priority of this Deed of Trust.

2.2 Payment of all sums which may become due from Grantor or advances by Beneficiary or its successor, with interest thereon at the rate set forth herein, which include but are not limited to, fire and other hazard insurance and taxes upon the real property herein described, according to the terms of this Deed of Trust; payment of all attorney fees and costs incurred by Trustee or Beneficiary in foreclosing this Deed of Trust or realizing upon any of the collateral for the obligations which this Deed of Trust secures; payment of all sums advanced by Beneficiary to or on behalf of Grantor for the purpose of clearing encumbrances or defects from the title to the Property where Beneficiary, in good faith, believes such encumbrances to be superior to the lien of the Deed of Trust; payment by Grantor of all attorney fees and costs incurred by Trustee or Beneficiary in any bankruptcy proceedings or any reorganization or arrangement proceeding under the United States Bankruptcy Code affecting Grantor or this Deed of Trust, and payment of all other sums advanced by Beneficiary to protect the Subject Property, with interest thereon at the rate set forth herein.

2.3 Payment of all other sums, with interest thereon, which may hereafter be loaned to Grantor, its successors, or assigns, by Beneficiary, when evidenced by a promissory note, note or other agreement reciting that they are secured by this Deed of Trust.

2.4 Payment of all of the obligations of Grantor under the dealer supply agreement between Grantor and Beneficiary dated as of May 10, 1996 (together with all modifications, amendments, supplements, and exhibits thereto, the "Supply Agreement").

All payments and obligations included in the above paragraphs as being secured hereby are hereinafter referred to as the indebtedness.

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**3. SECURITY AGREEMENT; FIXTURE FILING**

3.1 Grantor hereby grants to Beneficiary a security interest in the all of following (collectively, the "Secured Property").

(a) the Personal Property located on or at the Property, including without limitation any and all property of similar type or kind hereafter located on or at the Property for the purpose of securing all obligations of Grantor contained in the Amortization Agreement, the Supply Agreement, or this Deed of Trust,

(b) All existing and future goods located on or off the property which are not or in the future owned by the Grantor and used or to be used solely in the operation or occupancy of the property or in any construction on the property but which are not effectively made real property under the granting clause above, including but not limited to all appliances, furniture and furnishings, building service equipment, and building materials, supplies and equipment;

(c) All general intangibles relating primarily to the development or use of the Property, including but not limited to all governmental permits relating to the construction on the Property, all names under or by which the Property, or any of the Improvements may at any time be operated or known and all rights to carry on business under any such names or any variant thereof, and all trade-marks-marks and good will in any way relating to the Property.

(d) All reserves, deferred payments, deposits, refunds, cost savings and payments of any kind relating to the construction of any improvements on the property.

(e) the Cash Collateral, and

(f) all other Property in which a security interest may be granted under the Uniform Commercial Code of Washington

3.2 This Deed of Trust constitutes a security agreement as that term is used in the Uniform Commercial Code of Washington.

3.3 This Deed of trust constitutes a financing statement filed as a fixture filing in the Official Records of the County in which the Property is located with respect to any and all fixtures included within the term "Subject Property" as used herein and with respect to any goods or other personal property that may now or hereafter become such fixtures.

This Deed of Trust and any and all other documents executed by Grantor now or hereafter securing the payment of the Indebtedness are hereinafter referred to as the Security Documents.

**4. WARRANTIES, REPRESENTATIONS AND COVENANTS OF GRANTOR:**

4.1 Neither the Subject Property or the Secured Property are used principally for agricultural or farming purposes; the Fixtures are not used or bought for personal, family or household purposes.

4.2 The Security Documents will not violate any provision of law, any order of any court or other agency or government, or any indenture, partnership agreement or other agreement or instrument to which Grantor is a party or by which Grantor or any of his property is bound, or be in conflict with, result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Grantor, except as contemplated by the Security Documents, and no action with respect thereto by Grantor is required.

4.3 All information, reports, papers and data given to Beneficiary with respect to Grantor or others obligated under the terms of the Security Documents are accurate and correct in all material respects and complete insofar as completeness may be necessary to give Beneficiary a true and accurate

knowledge of the subject matter thereof.

4.4 As of the time and date of recordation of this Deed of Trust, Grantor will have good and marketable title ( **a Leasehold Interest**) to the Property, and good and marketable title to the Personal Property, and the right to assign the Leases and Cash Collateral to Beneficiary free and clear of any prior assignment, liens, charges, encumbrances, security interests and adverse claims whatsoever except any permitted encumbrances.

4.5 Grantor has not executed any prior assignment of the Leases or of its right, title and interest therein or in the Cash Collateral to accrue thereunder which will be or remain effective upon recordation of this Deed of Trust, Grantor has delivered (or caused to be delivered) to Beneficiary a true and complete copy of all of the existing Leases assigned hereunder, together with all amendments, supplements and other modifications, and to the best of Grantor's knowledge, no material default by Grantor or any other person under any existing Lease remains uncured.

4.6 Lease Agreement; Attornment. Grantor agrees not to terminate, surrender, amend, or modify any Lease, or grant any concessions in connection therewith, or to accept a surrender thereof without the written consent of the Beneficiary, which consent will not be unreasonably withheld, giving due regard to the preservation of cash flow sufficient for debt service and operating expenses of the Property. All Leases shall be in form and substance satisfactory to Beneficiary. Grantor agrees not to execute any future Lease or sublease pertaining to the Property without the prior written consent of Beneficiary, which shall not be unreasonably withheld and shall be deemed granted unless Beneficiary objects in writing within five (5) business days after Beneficiary's receipt of the proposed Lease.

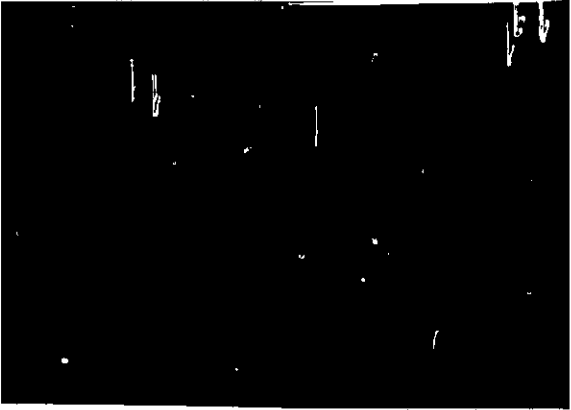
4.7 Performance of Leases and Other Agreements. Grantor will duly and punctually perform all covenants and agreements expressed as binding upon it under the Leases and under any other agreements to which it is a party with respect to the Property or any part thereof, and will use its best efforts to enforce or secure the performance of each and every obligation and undertaking of the respective lessees or lessors, as the case may be, under the Leases and will appear and defend, at its cost and expense, any action or proceeding arising under or in any manner connected with the Leases or the obligations and undertakings of any lessee or lessors, as the case may be, or other party thereunder. Grantor will immediately notify Beneficiary in writing of any notice of default. Upon Beneficiary's request, Grantor will submit satisfactory evidence of payment of all of its monetary obligations under the Leases, including, but not limited to, rents, taxes, assessments, insurance premiums and operating expenses.

4.8 Bankruptcy Filing Under Lease. If there shall be filed by or against Grantor a petition under the Bankruptcy Code, 11 U.S.C. Sections 101 et seq. (the "Bankruptcy Code"), Grantor, as tenant under any Lease, or any trustee appointed by the Bankruptcy Court in such proceedings ("Bankruptcy Trustee"), shall immediately (but in no event more than twenty (20) days after the filing of such petition) notify Beneficiary in writing of Grantor's or Bankruptcy Trustee's intent, as the case may be, to assume or reject the Lease pursuant to Section 365(a) of the Bankruptcy Code. If the intent of Grantor or Bankruptcy Trustee is to reject the Lease or to take no action under such Section 365(a), and Grantor or Bankruptcy Trustee has received notification from Beneficiary that, if such is the case, Beneficiary desires an assignment of the Lease, then:

Grantor or Bankruptcy Trustee shall file, prior to the expiration of the period provided in Section 365(d)(4) of the Bankruptcy Code, a motion with the Bankruptcy Court to assume and assign the Lease to Beneficiary; and

Beneficiary shall bear the burden of establishing with the Bankruptcy Court that Beneficiary can perform as required by Sections 365(b)(1) and (f) of the Bankruptcy Code.

If Beneficiary serves upon Grantor or Bankruptcy Trustee the notice described in the preceding sentence, Grantor or Trustee shall not seek to reject the Lease but shall forthwith (and in all events before the expiration of all applicable time periods for such assumption and assignment) obtain consent from the Bankruptcy Court to assume and assign the Lease for the purposes of this paragraph. Grantor agrees that Beneficiary may at any time apply to the Bankruptcy Court for an extension of any time period for the assumption of the Lease by Grantor and that the protection of Beneficiary's security interest in the Sublease shall be deemed sufficient cause for such extension and Grantor shall not oppose any application by Beneficiary for such extension. Grantor agrees that, if for any reason the Lease is rejected pursuant to the provisions of Section 365 of the Bankruptcy Code, Grantor will not take the position that such rejection is a termination of the Lease.



**4.9 No Merger.** Unless Beneficiary shall otherwise expressly consent in writing, the fee title to the Property demised by the Lease and the leasehold estate therein contained shall not merge but shall always remain separate and distinct, notwithstanding the union of the fee title and the leasehold estate by purchase or otherwise, in landlord or tenant thereunder, or in any other party. In the event Grantor acquires the fee title or any other estate, title or interest in the property demised under the Lease or any part thereof, the lien of this Deed of Trust, without further act, deed, conveyance or deed of trust on behalf of Grantor shall attach to, cover and be a lien upon such acquired estate, title or interest and such interest shall thereupon be and become a part of the security encumbered by this Deed of Trust with the same force and effect as if specifically encumbered in this Deed of Trust and in the event thereof, upon request of Beneficiary without cost or expense to Beneficiary, Grantor will execute, acknowledge and deliver all such further acts, conveyances, deeds, deeds of trusts, and assurances as Beneficiary shall reasonably require to ratify and confirm Beneficiary's lien on the acquired estate, title or interest.

**4.10 Rights to New Leasehold Estate; Control of Litigation.** If the Lease is canceled or terminated, and Beneficiary or its nominee shall acquire an interest in any new lease of the Property demised thereby, Grantor shall have no right, title or interest in or to the new lease or to the leasehold estate created by such new lease. If any action, proceeding, motion or notice shall be commenced or filed in respect of landlord or the leasehold estate under the Lease in connection with any case (including a case commenced or filed under the Bankruptcy Code), Beneficiary shall have the option, to the exclusion of Grantor, exercisable upon notice from Beneficiary to Grantor, to conduct and control any such litigation with counsel of Beneficiary's choice during the continuance of any event of default under this Deed of Trust. Beneficiary may proceed in its own name or in the name of Grantor in connection with any such litigation, and Grantor agrees to execute any and all powers, authorizations, consents or other documents required by Beneficiary in connection therewith. Grantor shall, upon demand, pay to Beneficiary all costs and expenses (including attorneys' fees) paid or incurred by Beneficiary in connection with the prosecution or conduct of any such proceedings. Any such costs or expenses not paid by Grantor as aforesaid shall be secured by the lien of this Deed of Trust and shall be added to the principal amount of the indebtedness secured hereby. Grantor shall not commence any action, suit, proceeding or case, or file any application or make any motion, in respect of the Lease in any such case without the prior written consent of Beneficiary. To the extent Grantor has a right to obtain estoppels under the Lease, Grantor will use reasonable efforts to obtain and deliver to Beneficiary within twenty (20) days after written request by Beneficiary, an estoppel certificate from landlord under the Lease setting forth (i) the name of the tenant thereunder, (ii) that the Lease has not been modified or, if it has been modified, the date of each modification (together with copies of each such modification), (iii) the rent payable under the Lease, (iv) the date to which all rental charges have been paid by tenant under the Lease, (v) whether there are any alleged defaults by tenant under the Lease and, if so, setting forth the nature thereof in reasonable detail, and (vi) as to such other matters as Beneficiary may reasonably request.

**4.11 Additional Rights and Remedies.** With or without notice, and without releasing Grantor from the indebtedness secured hereby, and without becoming a mortgagee in possession, Beneficiary and Trustee shall have the right to cure any breach or default of Grantor and, in connection therewith, to enter upon the Property and to do such acts and things as Beneficiary or Trustee deem necessary or desirable to protect the security hereof including, but without limitation, take any action Beneficiary deems necessary to prevent or cure any default under the Leases, including, without limitation, performing any of the tenant's covenants or obligations thereunder; to appear in and defend any action or proceedings purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee hereunder; to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the judgment of either Beneficiary or Trustee, is prior or superior hereto, the judgment of Beneficiary or Trustee being conclusive as between the parties hereto; to obtain insurance; to pay any premiums or charges with respect to insurance required to be carried hereunder; and to employ counsel, accountants, contractors and other appropriate persons to assist them. Upon receipt by Beneficiary from the landlord under the Lease of any written notice of default by Grantor or any other party as tenant or subtenant thereunder, Beneficiary may rely thereon and take such action as aforesaid to cure such default even though the existence of such default or the nature thereof be questioned or denied by Grantor or by any party on behalf of Grantor. Beneficiary may pay and expend such sums of money as Beneficiary in its sole discretion deems necessary for any such purpose, and Grantor hereby agrees to pay to Beneficiary, promptly following demand, all sums so paid and expended by Beneficiary, together with interest thereon



from the date of each such payment at the default rate, if any. All sums so paid and expended by Beneficiary, and the interest thereon, shall be added to and be secured by the lien of this Deed of Trust.

**5. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, GRANTOR COVENANTS AND AGREES:**

5.1 To keep the Subject Property and Secured Property in good condition and repair, to permit no waste thereof; to complete any building, structure, or improvement being built or about to be built thereon; to restore promptly any building, structure or improvement thereon which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions, and restrictions affecting the Subject Property.

5.2 To pay before delinquent all lawful taxes and assessments upon the Subject Property; to keep the Subject Property free and clear of all other charges, liens or encumbrances impairing the security of this Deed of Trust.

5.3 To keep all buildings now or hereafter erected on the Land herein continuously insured against loss by fire or other hazards in an amount not less than the total debt secured by this Deed of Trust. All policies shall be held by the Beneficiary, and be in such companies as the Beneficiary may approve and have loss payable first to the Beneficiary, as its interest may appear, and then to the Grantor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceeds to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

5.4 To defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorneys' fees in a reasonable amount, in any such action or proceeding, and in any suit brought by Beneficiary to foreclose this Deed of Trust.

5.5 To pay all costs, fees and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligations secured hereby and trustee's and attorneys' fees actually incurred, as provided by statute.

5.6 Grantor shall not permit or suffer any mechanic's, materialmen's or other lien to be created or to remain a lien upon any of the Property. So long as an event of default shall not have occurred and be continuing hereunder, Grantor shall have the right to contest or object to the amount or validity of any such claim and demand by appropriate administrative or judicial proceedings, in which event, the following provisions shall apply:

(a) Grantor shall give Beneficiary written notice of Grantor's intent to so contest or object to such claim or demand.

(b) Grantor shall thereafter diligently proceed to cause such claim or demand to be removed and discharged.

(c) Grantor, if requested by Beneficiary, shall deposit with Beneficiary a bond or other assurance satisfactory to Beneficiary in such amounts as Beneficiary shall require, but not more than 150% of the amount of the claim(s) or demand(s) plus costs, expenses, including reasonable attorneys' fees and interest.

5.7 Should Grantor fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances, utilities or other charges against the Subject Property, Beneficiary may pay the same and the amount so paid, with interest at the rate set forth as the default rate in the Amortization Agreement secured hereby, shall be added to and become a part of the debt secured in this Deed of Trust.

**5.8 Hazardous Substances**

(a) Grantor hereby represents and warrants to Beneficiary that, as of the date hereof and continuing hereafter, the Subject property (i) is not and has not been a site for the use, generation,

manufacture, storage, disposal, or transportation of any substances defined as or included in the definition of "hazardous substances", "hazardous materials", or "toxic substances" under any applicable federal or state laws or regulations (collectively, "Hazardous Materials"); (ii) is presently in compliance with all federal, state or local laws, ordinances, regulations, orders, and directives pertaining to Hazardous Materials on or about the Subject Property (collectively, "Hazardous Materials Laws"); and (iii) is not being used or has not been used in any manner which has resulted or will result in Hazardous Material being spilled or disposed on any adjacent or other property.

(b) Grantor covenants and agrees that (i) Grantor shall not permit the Subject Property to be used for the storage or disposal of any Hazardous Materials; and (ii) Grantor shall keep and maintain the Subject Property in compliance with all Hazardous Material Laws.

(c) Grantor agrees to indemnify and hold Beneficiary harmless from and against any and all claims, demands, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings arising directly or indirectly from the breach of any of the representations, warranties or covenants contained in this Paragraph 5.8.

(d) Grantor's obligations under this Paragraph 5.8 are unconditional and shall not be limited by any nonrecourse or other limitations of liability provided for in the Amortization Agreement or the Supply Agreement and any exhibits attached thereto or signed in connection therewith. The agreements, representations, warranties and covenants of the Grantor set forth in this Paragraph 5.8 shall survive the transfer of the Subject Property pursuant to foreclosure proceedings (whether judicial or nonjudicial), by deed in lieu of foreclosure or otherwise.

#### 5.9 Handicapped Access

(a) Grantor agrees that the Property shall at all times strictly comply to the extent applicable with the requirements of the Americans with Disabilities Act of 1990, the Fair Housing Amendments Act of 1988, all state and local laws and ordinances related to handicapped access, and all rules, regulations and orders issued pursuant thereto (hereinafter collectively referred to as the "Access Laws").

(b) Grantor agrees to give prompt notice to Beneficiary of the receipt by Grantor of any complaints related to violations of any Access Laws and of the commencement of any proceedings or investigations which relate to compliance with applicable Access Laws.

5.10 Grantor shall indemnify, defend, and hold harmless Beneficiary from and against any and all claims, demands, damages, costs, expenses, losses, liabilities, penalties, fines, and other proceedings including without limitation reasonable attorney fees and expenses arising directly or indirectly from or out of or in any way connected with any failure of the Property to comply with applicable Access Laws. The obligations and liabilities of Grantor under this section shall survive any termination, satisfaction, assignment, entry of a judgment of foreclosure, delivery of trustee's deed in a nonjudicial foreclosure proceeding, or delivery of a deed in lieu of foreclosure. Without the prior written consent of the Beneficiary, the Grantor will not seek, make or consent to any change in the zoning or conditions of use of the Mortgage Property Improvements on the Mortgaged Property under the terms of the Construction Advance Agreement. The Grantor will comply with and make all payments required under the provisions of any covenants, conditions or restrictions affecting the Mortgaged Property, constituent documents of any condominium, cooperative or planned development project on the Mortgaged Property. The Grantor will comply with all existing and future requirements of all governmental authorities having jurisdiction over the Mortgaged Property.

5.11 The Grantor agrees to pay when due all lawful claims and demands of mechanics, materialmen, laborers, and others for any work performed or materials delivered for the Mortgaged Property.

#### 6. IT IS MUTUALLY AGREED THAT:

6.1 In the event any portion of the Subject Property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy

the obligation secured hereby, shall be paid to Beneficiary to be applied to said obligation.

6.2 **Restrictions on Transfer of the Subject Property.** Neither the Subject Property nor any part thereof or interest therein shall be sold (by contract or otherwise), conveyed or otherwise transferred by Grantor without Beneficiary's prior written consent. Any such sale or transfer shall constitute a default hereunder without any grace or cure period.

6.3 By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive its right to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

6.4 The Trustee shall reconvey all or any part of the Subject Property covered by this Deed of Trust to the person entitled thereto on written request of the Grantor and the Beneficiary or upon satisfaction of the obligation secured and written request for reconveyances by the Beneficiary or the person entitled thereto.

6.5 Upon default by Grantor in the payment of any indebtedness secured hereby or in the performance of any agreement contained herein, or the breach of any representation or warranty described herein or in the performance or payment of any obligation or agreement or the breach of any representation or warranty in any of the other Security Documents, or Grantor's default or breach under the Leases, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In such event and upon written request of Beneficiary, Trustee shall sell the trust property, in accordance with the Deed of Trust Act of the State of Washington and the Uniform Commercial Code of Washington where applicable, at public auction to the highest bidder. Any person except Trustee may bid at Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (1) to the expense of the sale, including a reasonable Trustee's fee and attorney's fee; (2) to the obligation secured by this Deed of Trust; and (3) the surplus, if any, shall be distributed to the persons entitled thereto.

6.6 Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the Subject Property which Grantor had or had the power to convey at the time of his execution of this Deed of Trust, and such as he may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchaser and encumbrances for value.

6.7 The power of sale conferred by this Deed of Trust and by the Deed of Trust Act of the State of Washington is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage and may exercise any other right or remedy provided under law or in equity, including without limitation:

(a) With respect to all or any part of the Subject Property that constitutes personalty, the rights and remedies of a secured party under the Uniform Commercial Code of Washington.

(b) The right to have a receiver appointed to take possession of any or all of the Subject Property, with the power to protect and preserve the Subject Property and to operate the Subject Property preceding foreclosure or sale and apply the proceeds over and above cost of the receivership, against the indebtedness secured hereby. The receiver may serve without bond if permitted by law. Beneficiary's right to the appointment of a receiver shall exist whether or not apparent value of the Subject Property exceeds the indebtedness by a substantial amount. Grantor hereby irrevocably consents to the appointment of a receiver on the terms set forth herein. Employment by Beneficiary shall not disqualify a person from serving as a receiver.

6.8 **Assignment:** The assignment of any Lease shall not be deemed to impose upon Beneficiary any of the obligations or duties of Grantor provided in any such Lease; and Grantor agrees to fully perform all obligations of the Lessor under all such Leases.

6.9 Beneficiary shall give Grantor reasonable notice of the time and place of any public sale of any Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten days before the time of the sale or disposition.



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6.10 Grantor agrees to pay to Beneficiary immediately and without demand all costs and expenses, (including but not limited to reasonable attorney fees) incurred by Trustee and Beneficiary pursuant to Section 5 above.

6.11 Beneficiary may from time to time appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of an action or proceeding in which Grantor, Trustee, or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

6.12 All agreements between Grantor and Beneficiary are expressly limited so that in no event whatsoever shall the amount of interest paid or agreed to be paid to Beneficiary exceed the highest lawful rate permissible under applicable usury laws. In the event performance of any obligation of Grantor hereunder shall require the payment of interest in excess of such highest lawful rate, then such obligation shall, automatically and retroactively be deemed reduced to the highest lawful rate. If Beneficiary ever receives as interest an amount which would exceed such highest lawful rate, the amount of excessive interest shall not be applied to the payment of interest, but shall, automatically and retroactively be applied to the sums due hereunder. If the excessive interest exceeds such sums due, the amount shall be immediately returned without interest.

6.13 This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors, and assigns. The term Beneficiary shall mean the holder and owner of any amortization agreement, note and/or dealer supply agreement secured hereby, whether or not named as Beneficiary herein.

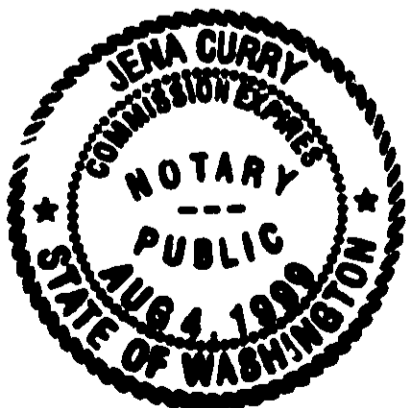
Skagit Partners III, Inc.

By: *Russell A. Wilson*  
Name: RUSSELL A WILSON  
Title: PRESIDENT

State of washington  
County of Whatcom

On May 15, 1996 before me Russell A. Wilson personally appeared he is personally known to me or proven to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS, my hand and official seal.



*Jena Curry*  
Signature of Notary  
Jena Curry  
Notary for WA State  
My Commission Expires: 8-4-99

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Order No. : 48104N

AMENDED  
SCHEDULE "C"

The land referred to herein is situated in the County of Skagit, State of Washington, and is described as follows:

Lot 1, of Short Plat No. 96-001, approved May 10, 1996, recorded May 17, 1996, in Volume 12 of Short Plats, Pages 100 and 101, as Auditor's File No. 9605170034, records of Skagit County, Washington, and being a portion of the Northeast 1/4 of the Northwest 1/4, Section 32, Township 34 North, Range 4 East, W.M.

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