

WHEN RECORDED RETURN TO:

Merrill Lynch Commercial Finance Corp.

222 North LaSalle Street

Chicago, Illinois 60601

Attention: Joanne Hill



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Skagit County Auditor

6/30/2008 Page 1 of 19 1:23PM

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

Grantor: Mt. Vernon Office Pet Partners, Limited Partnership

Grantee: Merrill Lynch Commercial Finance Corp.

Trustee: *Guardian Northwest Title*

Abbreviated Legal

Description: Section 18, Township 34, Range 4; Ptn. NE (aka Tract 2A and Ptn, Tracts 2 and 3A, BSP No. MV-1-94)

Assessor's Property Tax

Parcel Account Number(s): *P107485 and P107487*

Reference Numbers of

Documents Assigned or Released:



Merrill Lynch

RECORDING REQUESTED BY:

Merrill Lynch Commercial Finance Corp.

AND WHEN RECORDED MAIL TO:

Merrill Lynch Commercial Finance Corp.

222 North LaSalle Street

Chicago, Illinois 60601

Attention: Joanne Hill

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

This DEED OF TRUST, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING (this "Deed of Trust") is made as of **June 30, 2008**, by **Mt. Vernon Office Pet Partners, Limited Partnership**, a Washington limited partnership, with an address of **121 Spear Street, Suite 250, San Francisco, California 94105** (the "Grantor"), in favor of Merrill Lynch Commercial Finance Corp., a Delaware Corporation with an address of 222 North LaSalle Street, Chicago, Illinois 60601 (the "Grantee").

For purposes of the provisions of this Deed of Trust related to the creation and enforcement of this security instrument as a Deed of Trust, Grantor, as grantor, hereby conveys to _____, with an address of _____, Washington _____ (the "Trustee"), in trust and with power of sale, for the benefit of Lender, as Grantee, the security and interests described in Sections 1.1 and 1.2 below.

The real property which is the subject matter of this Deed of Trust has the following address(es): **201 East College Way, Mt. Vernon, Washington 98273** (the "Address(es)").

1. DEED OF TRUST, OBLIGATIONS AND FUTURE ADVANCES

1.1 Deed of Trust. For valuable consideration paid and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby irrevocably and unconditionally mortgages, warrants, grants, bargains, transfers, sells, conveys, sets over and assigns to the Trustee and its successors and assigns, IN TRUST, for the benefit and security of the Grantee forever, WITH POWER OF SALE AND RIGHT OF ENTRY AND POSSESSION, the "Property" described below, to secure the prompt payment and performance of the Obligations (as herein defined), including without limitation, all amounts due and owing to the Grantee and all obligations respecting that certain **Collateral Installment Note**, dated **June 30, 2008**, by **Mt. Vernon Office Pet Partners, Limited Partnership** in favor of the Grantee in the original principal amount of **\$5,500,000.00** (the "Note"; and collectively, along with all other agreements, documents, certificates and instruments delivered in connection therewith, the "Loan Documents"), and any substitutions, modifications, extensions or amendments to any of the Loan Documents.



200806300174

Skagit County Auditor

The amount of principal obligations outstanding and evidenced by the Loan Documents and secured by this Deed of Trust total **\$5,500,000.00** as of the date of this Deed of Trust (the "Amount"), but this Deed of Trust shall nevertheless secure payment and performance of all Obligations including, without limitation, any other liabilities and future advances, direct or indirect, absolute or contingent, now existing or hereafter arising from Grantor to Grantee.

1.2 Security Interest in Property. Grantor does hereby irrevocably convey to Trustee, in trust and with power of sale, for the benefit of the Grantee, and does hereby mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to the Grantee, and grant a security interest to the Grantee in, the Property (as hereinafter defined). This Deed of Trust is and shall be deemed to be a security agreement and financing statement pursuant to the terms of the Uniform Commercial Code of Washington (the "Uniform Commercial Code") as to any and all personal property and fixtures and as to all such property the Trustee and its successors and assigns, IN TRUST, for the benefit and security of the Grantee shall have the rights and remedies of a secured party under the Uniform Commercial Code in addition to its rights hereunder. This Deed of Trust constitutes a financing statement filed as a fixture filing under Section 62A.9A-502(c) of the Uniform Commercial Code covering any Property which now is or later may become a fixture. For this purpose, the respective addresses of Grantor and Lender are set forth in the preambles of this Deed of Trust and Grantor's organizational number is set forth on the signature page of this Deed of Trust.

1.3 Security Agreement; Fixture Filing. For purposes of the provisions of this Deed of Trust related to the creation and enforcement of this Deed of Trust as a security agreement and as a fixture filing, Grantor is the debtor and Grantee is the secured party. The mailing address of debtor (the Grantor herein) and of the secured party (the Grantee herein) from which information concerning security interests hereunder may be obtained is as set forth above. A carbon, photographic or other reproduction of this Deed of Trust or of any financing statement related to this Deed of Trust shall be sufficient as a financing statement for any of the purposes referenced herein.

1.4 Collateral Assignment of Leases and Rents. The Grantor hereby irrevocably and unconditionally assigns to the Trustee and its successors and assigns, IN TRUST, for the benefit and security of the Grantee as collateral security for the Obligations all of the Grantor's rights and benefits under any and all Leases (as herein defined) and any and all rents and other amounts now or hereafter owing with respect to the Leases or the use or occupancy of the Property. This collateral assignment shall be absolute and effective immediately, but the Grantor shall have a license, revocable by the Grantee, to continue to collect rents owing under the Leases until an Event of Default (as herein defined) occurs and the Grantee exercises its rights and remedies to collect such rents as set forth herein.

1.5 Conditions to Grant. The Grantee shall have and hold the above granted Property unto and to the use and benefit of the Grantee, and its successors and assigns forever; provided, however, the conveyances, grants and assignments contained in this Deed of Trust are upon the express condition that, if Grantor shall irrevocably pay and perform the Obligations in full, including, without limitation, all principal, interest and premium thereon and other charges, if applicable, in accordance with the terms and conditions in the Loan Documents and this Deed of Trust, shall pay and perform all other Obligations as set forth in this Deed of Trust and shall abide by and comply with each and every covenant and condition set forth herein and in the Loan Documents, the conveyances, grants and assignments contained in this Deed of Trust shall be appropriately released and discharged.

1.6 Property. The term "Property," as used in this Deed of Trust, shall mean the Real Property and the Other Property, collectively. The term "Real Property" shall mean that certain parcel of land and the fixtures, structures and improvements and all personal property constituting fixtures, as that term is defined in the Uniform Commercial Code, as more particularly described in Exhibit A attached hereto, and all rights now or hereafter existing, belonging, pertaining or appurtenant thereto. The term "Other Property" shall mean the following: (i) all right, title, and interest of Grantor, including any after-acquired title or reversion, in and to the rights-of-ways, streets, avenues, sidewalks, and alleys adjoining the Real Property, (ii) each and all of the tenements, hereditaments, easements, appurtenances, passages, waters, water courses, riparian rights, other rights, liberties and privileges of the Real Property in any way now or hereafter appertaining thereto, including homestead and any other claim at law or in equity, as well as any after-acquired title, franchise or license and the reversions and remainders thereof; (iii) all machinery, equipment, fittings, apparatus, appliances, furniture, furnishings, tools, fixtures (including, without limitation, all heating, air conditioning, ventilating, waste disposal, sprinkler and fire and theft protection equipment, and all plumbing, lighting, communications and elevator fixtures) and other property of every kind and description now or hereafter owned by Grantor and located upon or in, and used in connection with operation, maintenance, or occupancy of the Real Property or the Other Property (expressly excluding any such items either owned by tenants of the Real Property or used in connection with a business operated on the Real Property and not the operation, maintenance or occupancy of the Real Property); (iv) all judgments, awards of damages or settlements related to and all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including but not limited to proceeds of insurance and/or any Taking (as hereinafter defined), (v) all of the rights and benefits of the Grantor under any present or future leases and agreements relating to the Property, including, without limitation, rents, issues and profits, or the use or occupancy thereof together with any extensions and renewals thereof, specifically excluding all duties or obligations of the Grantor of any kind arising thereunder (the "Leases"); (vi) all contracts, permits and licenses respecting the use, operation or maintenance of the Property; and (vii) all proceeds and products and renewals of, additions and accretions to, substitutions and replacements for and changes in any of the property described above and any and all after-acquired right, title or interest of Grantor in and to any property of the types described above.

1.7 Obligations. The term "Obligation(s)," as used in this Deed of Trust, shall mean without limitation all loans, advances, indebtedness, notes, liabilities and amounts, liquidated or unliquidated, now or hereafter owing by the Grantor to the Grantee at any time, of each and every kind, nature and description, whether arising under this Deed of Trust or otherwise, and whether secured or unsecured, direct or indirect (that



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Skagit County Auditor

is, whether the same are due directly by the Grantor to the Grantee; or are due indirectly by the Grantor to the Grantee as endorser, guarantor or other surety, or as obligor of obligations due third persons which have been endorsed or assigned to the Grantee, or otherwise), absolute or contingent, due or to become due, now existing or hereafter contracted, including, without limitation, payment of all amounts outstanding when due pursuant to the terms of any of the Loan Documents. Said term shall also include all interest and other charges chargeable to the Grantor or due from the Grantor to the Grantee from time to time and all advances, costs and expenses referred to in this Deed of Trust, including without limitation the costs and expenses (including reasonable attorney's fees) of enforcement of the Grantee's rights hereunder or pursuant to any document or instrument executed in connection herewith. Notwithstanding the foregoing, the indemnification obligations of Grantor under the Certificate as to Oil and Hazardous Materials delivered in connection herewith shall not be secured by the lien of this Deed of Trust.

1.8 Cross-Collateral and Future Advances. It is the express intention of the Grantor that this Deed of Trust secure payment and performance of all of the Obligations, whether now existing or hereinafter incurred by reason of future advances by the Grantee or otherwise, and regardless of whether such Obligations are or were contemplated by the parties at the time of the granting of this Deed of Trust. Notice of the continuing grant of this Deed of Trust shall not be required to be stated on the face of any document evidencing any of the Obligations, nor shall such documents be required to otherwise specify that they are secured hereby.

2. REPRESENTATIONS, WARRANTIES, COVENANTS

2.1 Representations and Warranties. The Grantor represents and warrants that:

- (a) This Deed of Trust has been duly executed and delivered by the Grantor and is the legal, valid and binding obligation of the Grantor enforceable in accordance with its terms, except as limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally;
- (b) The Grantor is the sole legal owner of the Property, holding good and marketable fee simple title to the Property, subject to no liens, encumbrances, leases, security interests or rights of others, other than as set forth in detail in Exhibit B hereto (the "Permitted Encumbrances");
- (c) The Grantor is the sole legal owner of the entire lessor's interest in Leases, if any, with full power and authority to encumber the Property in the manner set forth herein, and the Grantor has not executed any other assignment of Leases or any of the rights or rents arising thereunder;
- (d) As of the date hereof, there are no Hazardous Substances (as hereinafter defined) in, on or under the Property, except as disclosed in writing to and acknowledged by the Grantee; and
- (e) Each Obligation is a commercial obligation and does not represent a loan used for personal, family or household purposes and is not a consumer transaction.

2.2 Recording; Further Assurances. The Grantor covenants that it shall, at its sole cost and expense and upon the request of the Grantee, cause this Deed of Trust, and each amendment, modification or supplement hereto, to be recorded and filed in such manner and in such places, and shall at all times comply with all such statutes and regulations as may be required by law in order to establish, preserve and protect the interest of the Grantee in the Property and the rights of the Grantee under this Deed of Trust. Grantor will from time to time execute and deliver to the Grantee such documents, and take or cause to be taken, all such other or further action, as the Grantee may request in order to effect and confirm or vest more securely in the Grantee all rights contemplated by this Deed of Trust (including, without limitation, to correct clerical errors) or to vest more fully in, or assure to the Grantee the security interest in, the Property or to comply with applicable statute or law. To the extent permitted by applicable law, Grantor authorizes the Grantee to file financing statements, continuation statements or amendments, and any such financing statements, continuation statements or amendments may be filed at any time in any jurisdiction. The Grantee may at any time and from time to time file financing statements, continuation statements and amendments thereto that describe the Property as defined in this Deed of Trust and which contain any other information required by Article 9 of the Uniform Commercial Code for the sufficiency or filing office acceptance of any financing statement, continuation statement or amendment, including whether Grantor is an organization, the type of organization and any organization identification number issued to Grantor; Grantor also authorizes the Grantee to file financing statements describing any agricultural liens or other statutory liens held by the Grantee. Grantor agrees to furnish any such information to the Grantee promptly upon request. In addition, Grantor shall at any time and from time to time, take such steps as the Grantee may reasonably request for the Grantee (i) to obtain an acknowledgment, in form and substance satisfactory to the Grantee, of any bailee having possession of any of the Property that the bailee holds such Property for the Grantee, and (ii) otherwise to insure the continued perfection and priority of the Grantee's security interest in any of the Property and the preservation of its rights therein. Grantor hereby constitutes the Grantee its attorney-in-fact to execute and file all filings required or so requested for the foregoing purposes, all acts of such attorney being hereby ratified and confirmed; and such power, being coupled with an interest, shall be irrevocable until this Deed of Trust terminates in accordance with its terms, all Obligations are paid in full and the Property is released.



200806300174

Skagit County Auditor

2.3 Restrictions on the Grantor. The Grantor covenants that it will not, nor will it permit any other person to, directly or indirectly, without the prior written approval of the Grantee in each instance:

- (a) Sell, convey, assign, transfer, mortgage, pledge, hypothecate, lease or dispose of all or any part of any legal or beneficial interest in the Grantor or the Property or any part thereof or permit any of the foregoing, except as expressly permitted by the terms of this Deed of Trust;
- (b) Permit to be created or suffer to exist any mortgage, lien, security interest, attachment or other encumbrance or charge on the Property or any part thereof or interest therein (except for the Permitted Encumbrances), including, without limitation, (i) any lien arising under any Federal, state or local statute, rule, regulation or law pertaining to the release or cleanup of Hazardous Substances and (ii) any mechanics' or materialmen's lien. The Grantor further agrees to give the Grantee prompt written notice of the imposition, or notice, of any lien referred to in this Section and to take any action necessary to secure the prompt discharge or release of the same. The Grantor agrees to defend its title to the Property and the Grantee's interest therein against the claims of all persons and, unless the Grantee requests otherwise, to appear in and diligently contest, at the Grantor's sole cost and expense, any action or proceeding that purports to affect the Grantor's title to the Property or the priority or validity of this Deed of Trust or the Grantee's interest hereunder.

2.4 Operation of Property. The Grantor covenants and agrees as follows:

- (a) The Grantor will not permit the Property to be used for any unlawful or improper purpose, will at all times comply with all Federal, state and local laws, ordinances and regulations, and the provisions of any Lease, easement or other agreement affecting all or any part of the Property, and will obtain and maintain all governmental or other approvals relating to the Grantor, the Property or the use thereof, including without limitation, any applicable zoning or building codes or regulations and any laws or regulations relating to the handling, storage, release or cleanup of Hazardous Substances, and will give prompt written notice to the Grantee of (i) any violation of any such law, ordinance or regulation by the Grantor or relating to the Property, (ii) receipt of notice from any Federal, state or local authority alleging any such violation and (iii) the presence or release on the Property of any Hazardous Substances;
- (b) Grantor warrants that the Property is not and will not be used principally for agricultural or farming purposes. Grantor warrants that it is engaging in this transaction exclusively for business, commercial or investment purposes. The proceeds of any loan secured by this Deed of Trust shall not be used for personal, family or household purposes.
- (c) The Grantor will at all times keep the Property insured for such losses or damage, in such amounts and by such companies as may be required by law and which the Grantee may require, provided that, in any case, the Grantor shall maintain: (i) physical hazard insurance on an "all risks" basis in an amount not less than 100% of the full replacement cost of the Property; (ii) flood insurance if and as required by applicable Federal law and as otherwise required by the Grantee; (iii) comprehensive commercial general liability insurance; (iv) rent loss and business interruption insurance; and (v) such other insurance as the Grantee may require from time to time, including builder's risk insurance in the case of construction loans. All policies regarding such insurance shall be issued by companies licensed to do business in the state where the policy is issued and also in the state where the Property is located, be otherwise acceptable to the Grantee, provide deductible amounts acceptable to the Grantee, name the Grantee as mortgagee, loss payee and additional insured, and provide that no cancellation or material modification of such policies shall occur without at least Thirty (30) days prior written notice to the Grantee. Such policies shall include (i) a mortgage endorsement determined by the Grantee in good faith to be equivalent to the "standard" mortgage endorsement so that the insurance, as to the interest of the Grantee, shall not be invalidated by any act or neglect of the Grantor or the owner of the Property, any foreclosure or other proceedings or notice of sale relating to the Property, any change in the title to or ownership of the Property, or the occupation or use of the Property for purposes more hazardous than are permitted at the date of inception of such insurance policies; (ii) a replacement cost endorsement; (iii) an agreed amount endorsement; (iv) a contingent liability from operation endorsement; and (v) such other endorsements as the Grantee may request. The Grantor will furnish to the Grantee upon request such original policies, certificates of insurance or other evidence of the foregoing as are acceptable to the Grantee. The terms of all insurance policies shall be such that no coinsurance provisions apply, or if a policy does contain a coinsurance provision, the Grantor shall insure the Property in an amount sufficient to prevent the application of the coinsurance provisions;
- (d) Grantor will not enter into or modify the Leases in any material respect without the prior written consent of the Grantee, execute any assignment of the Leases except in favor of the Grantee, or accept any rentals under any Lease for more than one month in advance and will at all times perform and fulfill every term and condition of the Leases. With respect to properties which are multi-family residential projects, all Leases shall contain an automatic attornment provision whereby in the event of a foreclosure, the tenant automatically shall recognize the successor owner as landlord and such tenant shall have no right to terminate its Lease in the event of such foreclosure. Except with respect to multi-family residential projects, if Grantor enters into any new Lease or any modification or renewal of any existing Lease, at Lender's request, Grantor shall cause the Tenant thereunder to execute a subordination, non-disturbance and attornment agreement (or, in the case of Leases with affiliates of



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Grantor, a subordination agreement) in form and substance satisfactory to Lender. Grantor shall provide Lender with a copy of the fully executed original of all Leases promptly following their execution. Notwithstanding the foregoing, so long as no Event of Default exists Grantor may, without Lender's prior written consent, enter into any Lease so long as the terms of such Lease, including without limitation rent, lease term, tenant allowances, free rent and other landlord concessions, are no less favorable to the landlord than "market" terms for properties of similar geographic location and property type as the Real Property. Lender, in its sole discretion, may at any time elect to subordinate the lien of this Deed of Trust to one or more Leases;

- (e) Grantor will at all times (i) maintain complete and accurate records and books regarding the Property in accordance with generally accepted accounting principles and (ii) permit the Grantee and the Grantee's agents, employees and representatives, at such reasonable times as the Grantee may request, to enter and inspect the Property and such books and records;
- (f) If there is a third party manager of the Property as of the date hereof, Grantor shall not change the manager of the Property or enter into, modify, amend, terminate or cancel any management contracts for the Property, without the prior written approval of Lender.
- (g) Grantor will not cause or permit any change in the use of the Property from its current use and shall not initiate or acquiesce in any change in zoning of the Property in each case without the prior written consent of Lender.
- (h) Grantor will at all times keep the Property in good and first-rate repair and condition (damage from casualty not excepted) and will not commit or permit any strip, waste, impairment, deterioration or alteration of the Property or any part thereof.

2.5 Payments. The Grantor covenants to pay when due: all Federal, state, municipal, real property and other taxes, betterment and improvement assessments and other governmental levies, water rates, sewer charges, insurance premiums and other charges on the Property, this Deed of Trust or any Obligation secured hereby that could, if unpaid, result in a lien on the Property or on any interest therein. If and when requested by the Grantee, the Grantor shall deposit from time to time with the Grantee sums determined by the Grantee to be sufficient to pay when due the amounts referred to in this Section. The Grantor shall have the right to contest any notice, lien, encumbrance, claim, tax, charge, betterment assessment or premium filed or asserted against or relating to the Property; provided that it contests the same diligently and in good faith and by proper proceedings and, at the Grantee's request, provides the Grantee with adequate cash security, in the Grantee's reasonable judgment, against the enforcement thereof. The Grantor shall furnish to the Grantee the receipted real estate tax bills or other evidence of payment of real estate taxes for the Property within thirty (30) days prior to the date from which interest or penalty would accrue for nonpayment thereof. The Grantor shall also furnish to the Grantee evidence of all other payments referred to above within fifteen (15) days after written request therefor by the Grantee. If Grantor shall fail to pay such sums, the Grantee may, but shall not be obligated to, advance such sums. Any sums so advanced by the Grantee shall be added to the Obligations, shall bear interest at the highest rate specified in any note evidencing the Obligations, and shall be secured by the lien of this Deed of Trust.

2.6 Notices; Notice of Default. The Grantor will deliver to the Grantee, promptly upon receipt of the same, copies of all notices or other documents it receives that affect the Property or its use, or claim that the Grantor is in default in the performance or observance of any of the terms hereof or that the Grantor or any tenant is in default of any terms of the Leases. The Grantor further agrees to deliver to the Grantee written notice promptly upon the occurrence of any Event of Default hereunder or event that with the giving of notice or lapse of time, or both, would constitute an Event of Default hereunder.

2.7 Takings. In case of any condemnation or expropriation for public use of, or any damage by reason of the action of any public or governmental entity or authority to, all or any part of the Property (a "Taking"), or the commencement of any proceedings or negotiations that might result in a Taking, the Grantor shall immediately give written notice to the Grantee, describing the nature and extent thereof. The Grantee may, at its option, appear in any proceeding for a Taking or any negotiations relating to a Taking and the Grantor shall immediately give to the Grantee copies of all notices, pleadings, determinations and other papers relating thereto. The Grantor shall in good faith and with due diligence and by proper proceedings file and prosecute its claims for any award or payment on account of any Taking. The Grantor shall not settle any such claim without the Grantee's prior written consent. The Grantor shall hold any amounts received with respect to such awards or claims, by settlement, judicial decree or otherwise, in trust for the Grantee and immediately pay the same to the Grantee. The Grantor authorizes any award or settlement due in connection with a Taking to be paid directly to the Grantee in amounts not exceeding the Obligations. With respect to a Taking of all or substantially all of the Real Property, the Grantee may apply such amounts to the Obligations in such order as the Grantee may determine. In the event of any Taking of less than substantially all of the Real Property, Lender shall make available the proceeds of any award received in compensation for any such Taking, less Lender's reasonable costs of collection, for the purpose of rebuilding and restoring the Real Property, subject to the same terms and conditions as set forth in the Section of this Deed of Trust entitled "Insurance Proceeds". If any of the foregoing conditions are not or cannot be satisfied, then Lender may use or apply the award to the Obligations.

2.8 Insurance Proceeds. In the event of any casualty loss, Grantor shall give immediate notice thereof to Lender. Grantor hereby authorizes Lender, at Lender's option, to adjust and compromise any such losses under any of the aforesaid insurance and, after deducting Lender's reasonable costs of collection, to use, apply, or disburse the balance of such insurance proceeds toward repairing, restoring and rebuilding the improvements comprising a portion of the Real Property, provided such repair, restoration or rebuilding is economically feasible.



200806300174
Skagit County Auditor

and the security of this Deed of Trust is not thereby impaired. Lender shall not be obligated to see to the proper application thereof nor shall the amount so released for such purposes be deemed a payment or credit against the indebtedness secured hereby, with the excess, if any, paid to Grantor; provided, however, that so long as no Event of Default shall then exist and no Event of Default shall exist at any time during the period of any repair, restoration and/or rebuilding of the aforesaid improvements, and subject to the provisions of this Section, upon Grantor's written request to Lender made on or before the disbursement of such insurance proceeds to Lender, such insurance proceeds shall be used to repair, restore and/or rebuild the aforesaid improvements; provided that (1) all insurance proceeds are deposited with Lender, (2) in Lender's reasonable judgment the amount of insurance proceeds available for restoration of the improvements is sufficient to pay the full and complete costs of such restoration, or if not sufficient, Grantor has deposited with Lender an amount, which together with the amount of the insurance proceeds available for restoration of the improvements, in Lender's reasonable judgment, will be sufficient to pay the full and complete costs of such restoration, (3) no material Leases (which for this purpose shall mean Leases demising more than five percent (5%) of the rentable square feet of space in the improvements) in effect at the time of such casualty or Taking are or will be terminated as a result of such casualty or Taking, (4) the income from the Property (including any business interruption insurance proceeds) will not decrease more than five percent (5%) as a result of such casualty or Taking (5) the cost of restoration will not exceed twenty-five percent (25%) of the Obligations, (6) in Lender's sole determination after completion of restoration, the Obligations will not exceed seventy-five (75%) of the fair market value of the Property, (7) in Lender's reasonable determination the Property can be restored to an architecturally and economically viable project in compliance with applicable laws, (8) each guarantor reaffirms in writing its/his/her obligations under the Guarantees, and (9) in Lender's reasonable determination such restoration is likely to be completed not later than six (6) months prior to the maturity date of the Note(s). Unless Grantor and Lender otherwise agree in writing, any such application of proceeds to the sums secured by this Deed of Trust shall not extend or postpone the due date of any portion of the indebtedness secured hereby or change the amount of any installment due on such indebtedness.

To the extent any such insurance proceeds are used toward repairing, restoring and rebuilding such improvements, such proceeds shall be made available, from time to time, upon Lender being furnished with satisfactory evidence of the estimated cost of such repairs, restoration and rebuilding and with such architect's certificates, waivers of lien, certificates, contractors' sworn statements and other evidence of the estimated cost thereof and of payments as Lender may reasonably require and approve, and if the estimated cost of the work exceeds 5% of the original principal amount of the Note, with all plans and specifications for such plans, restoration and rebuilding as Lender may reasonably require and approve. Payments made prior to the final completion of the work shall not exceed 90% of the value of the work performed, from time to time, and at all times the undisbursed balance of such proceeds remaining in the hands of Lender shall be at least sufficient to pay for the cost of completion of the work, free and clear of any liens except the lien of this Deed of Trust. Lender shall have the right to require that all funds shall be paid through a construction escrow with a title insurance company selected by Lender. In the event of foreclosure of this Deed of Trust or other transfer of title to the Property in extinguishment of the Obligations, all right, title and interest of Grantor in and to any such insurance policies then in force, and any claims or proceeds thereunder, shall pass to Lender or any purchaser or grantee therefrom.

2.9 Environmental Matters. Grantor hereby covenants, represents, warrants and agrees as follows:

(a) Grantor hereby represents and warrants to Lender that no Hazardous Substances (as defined in subparagraph (b) of this section) are presently stored or otherwise located on the Real Property and, to the best of its knowledge, on any adjacent parcels of real estate, except in accordance with all applicable Hazardous Substances Laws (as defined in subparagraph (b) of this section).

(b) Neither Grantor nor any other persons from time to time present on the Real Property shall use, generate, treat, manufacture, store, release, dispose of, or permit or suffer to exist in, on, under or about the Real Property or transport to or from the Real Property any flammable materials, explosives, petroleum products (including crude oil), radioactive materials, hazardous wastes, toxic substances or related materials, including, without limitation, any asbestos, asbestos containing materials, PCB's or any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," or "toxic substances" (collectively, the "Hazardous Substances"), under any Federal, state or local law, ordinance or regulation dealing with or otherwise pertaining to toxic or hazardous substances, wastes or materials or to occupational safety (collectively, the "Hazardous Substances Laws"). Notwithstanding the foregoing, Grantor may bring limited quantities of Hazardous Substances onto the Real Property for their customary and ordinary application, storage and use for landscape purposes, janitorial services and pest control purposes.

(c) Upon the written request of Lender to Grantor, Lender's attorneys, employees, agents or other persons or entities designated by Lender shall, from time to time, and at any reasonable time, be allowed to enter upon the Real Property and conduct environmental examinations and environmental audits of the Real Property, all in form, manner and type as Lender may then require in its sole discretion. Grantor shall fully cooperate and make the Real Property available to Lender at such times as Lender may reasonably request in order to conduct such environmental examinations and environmental audits.

(d) Grantor hereby agrees to give immediate notice of any violation of any Hazardous Substances Laws affecting the Real Property. Grantor covenants and agrees to promptly contain and clean up any and all releases of Hazardous Substances on the Real Property. Notwithstanding any language or provision of this Deed of Trust to the contrary, Grantor hereby unconditionally



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gives Lender the right, but not the obligation, and Lender does not so obligate itself, to undertake to contain and clean up releases of Hazardous Substances on the Real Property. Grantor hereby indemnifies and saves Lender harmless of and from any and all loss, costs (including reasonable attorneys' fees), liability and damage whatsoever incurred by Lender, by reason of any violation of any applicable Hazardous Substances Laws or by reason of the imposition of any governmental lien for the recovery of environmental clean-up costs related to the Real Property expended by reason of such violation; provided that, to the extent that Lender is strictly liable under any Hazardous Substances Laws, Grantor's obligation to Lender under this indemnity shall likewise be without regard to fault on the part of Grantor with respect to the violation of Hazardous Substances Laws that results in liability to Lender. Grantor further agrees that this indemnity shall continue and remain in full force and effect beyond the term of Obligations and shall be terminated only when there is no further obligation of any kind whether in law or in equity or otherwise of Lender in connection with any such Hazardous Substances involving the Real Property.

(e) In the event that any operations and maintenance plans or other programs for the management and handling of Hazardous Materials ("O & M Plan") are received by Lender in connection with any environmental reports or surveys prepared for Grantee in connection with the Property, Grantor shall comply with the terms and recommendations of any such O & M Plan and upon Lender's request shall provide to Lender evidence of such compliance.

3. CERTAIN RIGHTS OF THE GRANTEE

3.1 Legal Proceedings. The Grantee shall have the right, but not the duty, to intervene or otherwise participate in any legal or equitable proceeding that, in the Grantee's reasonable judgment, might affect the Property or any of the rights created or secured by this Deed of Trust. The Grantee shall have such right whether or not there shall have occurred an Event of Default hereunder.

3.2 Appraisals/Assessments. The Grantee shall have the right, at the Grantor's sole cost and expense, to obtain appraisals, environmental site assessments or other inspections of the portions of the Property that are real estate at such times as the Grantee deems necessary or as may be required by applicable law or its prevailing credit or underwriting policies. The Obligations shall include, without limitation, the costs of any property appraisals that may be obtained by Grantee in connection with a suit for a deficiency judgment.

3.3 Substitution of Trustee. The Beneficiary may from time to time, without notice to the Trustor or Trustee and with or without cause and with or without the resignation of Trustee, substitute a successor or successors to the Trustee named herein or acting hereunder. Upon such appointment, the successor trustee shall be vested with all title, powers and duties conferred upon the Trustee named herein or acting hereunder. Each such appointment and substitution shall be made by a writing executed by Beneficiary and when duly recorded in the appropriate office shall be conclusive proof of proper appointment of such successor Trustee. The procedure herein provided for substitution of the Trustee shall be conclusive of all other provisions for substitution, statutory or otherwise.

3.4 Leases and Rent Roll. The Grantor shall deliver to the Grantee (i) during each calendar year and at such other times as the Grantee shall request a rent roll for the Property, in form acceptable to the Grantee, listing all tenants and occupants and describing all of the Leases; and (ii) at such times as the Grantee shall request executed copies of all the Leases.

4. DEFAULTS AND REMEDIES

4.1 Events of Default. Event of Default shall mean the occurrence of any one or more of the following events:

- (a) default of any liability, obligation, covenant or undertaking of the Grantor or any guarantor of the Obligations to the Grantee, hereunder or otherwise, including, without limitation, failure to pay in full and when due any installment of principal or interest or default of the Grantor or any guarantor of the Obligations under any other Loan Document or any other agreement with the Grantee continuing for 5 business days with respect to the payment of money or continuing for 10 business days with respect to any other default;
- (b) failure by the Grantor or any guarantor of the Obligations to perform, observe or comply with any of the covenants, agreements, terms or conditions set forth in this Deed of Trust or the Loan Documents continuing for 10 business days;
- (c) the issuance or making of any levy, seizure, attachment, execution or similar process on a material portion of the Property;
- (d) if any statement, representation or warranty heretofore, now or hereafter made by the Grantor or any guarantor of the Obligations in connection with this Deed of Trust or in any supporting financial statement of the Grantor or any guarantor of the Obligations shall be determined by the Grantee to have been false or misleading in any material respect when made;
- (e) the occurrence of any default or event of default (however described) under any of the other Loan Documents which is not cured within any applicable notice or cure periods;



4.2 Remedies. On the occurrence of any Event of Default the Grantee may, at any time thereafter, at its option and, to the extent permitted by applicable law, without notice, exercise any or all of the following remedies:

- (a) Declare the Obligations due and payable, and the Obligations shall thereupon become immediately due and payable, without presentment, protest, demand or notice of any kind, all of which are hereby expressly waived by the Grantor except for Obligations due and payable on demand, which shall be due and payable on demand whether or not an event of default has occurred hereunder;
- (b) Direct the Trustee to, or enter, take possession of, manage and operate the Property (including all personal property and all records and documents pertaining thereto) and any part thereof and exclude the Grantor therefrom, take all actions it deems necessary or proper to preserve the Property and operate the Property as a mortgagee in possession with all the powers as could be exercised by a receiver or as otherwise provided herein or by applicable law; provided, however, the entry by the Grantee upon the Property for any reason shall not cause the Trustee or the Grantee to be a mortgagee in possession, except upon the express written declaration of the Grantee;
- (c) With or without taking possession, receive and collect all rents, income, issues and profits ("Rents") from the Property (including all real estate and personal property and whether past due or thereafter accruing), including as may arise under the Leases, and the Grantor appoints the Grantee as its true and lawful attorney with the power for the Grantee in its own name and capacity to demand and collect Rents and take any action that the Grantor is authorized to take under the Leases. The Grantee shall (after payment of all costs and expenses incurred) apply any Rents received by it to the Obligations in such order as the Grantee determines, or in accordance with any applicable statute, and the Grantor agrees that exercise of such rights and disposition of such funds shall not be deemed to cure any default or constitute a waiver of any foreclosure once commenced nor preclude the later commencement of foreclosure for breach thereof. The Grantee shall be liable to account only for such Rents actually received by the Grantee. Lessees under the Leases are hereby authorized and directed, following notice from the Grantee, to pay all amounts due the Grantor under the Leases to the Grantee, whereupon such lessees shall be relieved of any and all duty and obligation to the Grantor with respect to such payments so made;
- (d) In addition to any other remedies, to sell the Property or any part thereof or interest therein pursuant to exercise of its power of sale or otherwise at public auction on terms and conditions as the Grantee may determine, or otherwise foreclose this Deed of Trust in any manner permitted by law, and upon such sale the Grantor shall execute and deliver such instruments as the Grantee may request in order to convey and transfer all of the Grantor's interest in the Property, and the same shall operate to divest all rights, title and interest of the Grantor in and to the Property. In the event this Deed of Trust shall include more than one parcel of property or subdivision (each hereinafter called a "portion"), the Grantee shall, in its sole and exclusive discretion and to the extent permitted by applicable law, be empowered to foreclose upon any such portion without impairing its right to foreclose subsequently upon any other portion or the entirety of the Property from time to time thereafter. In addition, the Grantee may in its sole and exclusive discretion subordinate this Deed of Trust to one or more Leases for the sole purpose of preserving any such Lease in the event of a foreclosure;
- (e) Cause one or more environmental assessments to be taken, arrange for the cleanup of any Hazardous Substances or otherwise cure the Grantor's failure to comply with any statute, regulation or ordinance relating to the presence or cleanup of Hazardous Substances, and the Grantor shall provide the Grantee or its agents with access to the Property for such purposes; provided that the exercise of any of such remedies shall not be deemed to have relieved the Grantor from any responsibility therefor or given the Grantee "control" over the Property or cause the Grantee to be considered to be a mortgagee in possession, "owner" or "operator" of the Property for purposes of any applicable law, rule or regulation pertaining to Hazardous Substances; and
- (f) Take such other actions or proceedings as the Grantee deems necessary or advisable to protect its interest in the Property and ensure payment and performance of the Obligations, including, without limitation, appointment of a receiver (and the Grantor hereby waives any right to object to such appointment) and exercise of any of the Grantee's remedies provided herein or in any other document evidencing, securing or relating to any of the Obligations or available to a secured party under the Uniform Commercial Code or under other applicable law.

In addition, the Grantee shall have all other remedies provided by applicable law, including, without limitation, the right to pursue a judicial sale of the Property or any portion thereof by deed, assignment or otherwise and the right to foreclose Grantor's interest in all or any part of the Property by judicial foreclosure and to cause the Trustee to foreclose by notice and sale by nonjudicial foreclosure, in accordance with applicable law. Any receiver appointed may serve without bond. Employment by the Grantee will not disqualify a person from serving as receiver.

The Grantor agrees and acknowledges that the acceptance by the Grantee of any payments from either the Grantor or any guarantor after the occurrence of any Event of Default, the exercise by the Grantee of any remedy set forth herein or the commencement, discontinuance or abandonment of foreclosure proceedings against the Property shall not waive the Grantee's right to foreclose or operate as a



bar or estoppel to the exercise of any other rights or remedies of the Grantee. The Grantor agrees and acknowledges that the Grantee, by making payments or incurring costs described herein, shall be subrogated to any right of the Grantor to seek reimbursement from any third parties, including, without limitation, any predecessor in interest to the Grantor's title or other party who may be responsible under any law, regulation or ordinance relating to the presence or cleanup of Hazardous Substances.

4.3 Priority of Payments. Any rents, issues, deposits, profits, and avails of the Property received by Lender after taking possession of all or any part of the Property, or pursuant to any assignment thereof to Lender under the provisions of this Deed of Trust, shall (unless otherwise required by court order) be applied in payment of or on account of the following, in the order listed:

(a) operating expenses of the Property (including reasonable compensation to Lender, any receiver of the Property, any agent or agents to whom management of the Property has been delegated, and also including lease commissions and other compensation for and expenses of seeking and procuring tenants and entering into leases, establishing claims for damages, if any, and paying premiums on insurance hereinabove authorized);

(b) taxes, special assessments, and water and sewer charges now due or that may hereafter become a lien thereon prior to the lien of this Deed of Trust;

(c) any and all reasonable repairs, decorating, renewals, replacements, alterations, additions, betterments, and improvements of the Property (including, without limitation, the cost of placing the Property in such condition as will, in the judgment of Lender or any receiver, make it readily rentable or salable);

(d) all indebtedness secured by this Deed of Trust and other Obligations, including, without limitation, any deficiency that may result from any foreclosure sale pursuant hereto; and

(e) any remaining funds to Grantor or its successors or assigns, as their interests and rights may appear or to whoever else may then be adjudged entitled thereto.

4.4 Advances. If the Grantor fails to pay or perform any of its obligations respecting the Property, the Grantee may in its sole discretion do so without waiving or releasing Grantor from any such obligation. Any such payments may include, but are not limited to, payments for taxes, assessments and other governmental levies, water rates, insurance premiums, maintenance, repairs or improvements constituting part of the Property. Any amounts paid by the Grantee hereunder shall be, until reimbursed by the Grantor, part of the Obligations and secured by this Deed of Trust, and shall be due and payable to the Grantee, on demand, together with interest thereon to the extent permitted by applicable law, at the highest rate permitted under any of the notes evidencing the Obligations.

4.5 Cumulative Rights and Remedies. All of the foregoing rights, remedies and options (including without limitation the right to enter and take possession of the Property, the right to manage and operate the same, and the right to collect Rents, in each case whether by a receiver or otherwise) are cumulative and in addition to any rights the Grantee might otherwise have, whether at law or by agreement, and may be exercised separately or concurrently and none of which shall be exclusive of any other. The Grantor further agrees that the Trustee and the Grantee may exercise any or all of its rights or remedies set forth herein without having to pay the Grantor any sums for use or occupancy of the Property.

4.6 Grantor's Waiver of Certain Rights. To the extent permitted by applicable law, the Grantor hereby waives the benefit of all present and future laws (i) providing for any appraisal before sale of all or any portion of the Property or (ii) in any way extending the time for the enforcement of the collection of the Obligations or creating or extending a period of redemption from any sale made hereunder.

4.7 Transfer of Title. Upon the completion of any sale or sales of any Property, Trustee shall execute and deliver to the accepted purchaser or purchasers a good and sufficient deed of conveyance or assignment and transfer, lawfully conveying, assigning, and transferring the Property sold, but without any covenant or warranty, express or implied.

4.8 Effect of Sale. Any sale or sales made by virtue of or under this Deed of Trust, whether under any power of sale herein granted or through judicial proceedings, shall, to the fullest extent permitted by law, operate to divest all right, title, estate, interest, claim, and demand whatsoever, either at law or in equity, of Trustor in and to the property so sold, or any part thereof from, through or under Trustor, its successors and assigns. The receipt by Trustee of such purchase money shall be full and sufficient discharge to any purchaser of the Property or any part thereof sold as aforesaid for the purchase money; and no purchaser or his representatives, grantees or assigns after paying such purchase money, shall be bound to see to the application of such purchase money upon or for any trust or purpose of this Deed of Trust, or in any manner whatsoever be answerable for any loss, misapplication or non-application of any such purchase money or be bound to inquire as to the authorization, necessity, expedience or regularity of any such sale.

4.9 Reconveyance. Upon written request of the Beneficiary and surrender of this Deed of Trust and any Notes to Trustee for cancellation or endorsement, and upon payment of its fees and charges, Trustee shall reconvey, without warranty, all or any part of the



200806300174
Skagit County Auditor

Property then subject to this Deed of Trust. Any reconveyance, whether full or partial, shall be made to the person or persons legally entitled thereto, and the recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof.

5. MISCELLANEOUS

5.1 Costs and Expenses. To the extent permitted by applicable law, the Grantor shall pay to the Trustee and the Grantee, on demand, all reasonable expenses (including attorneys' fees and expenses and reasonable consulting, accounting, appraisal, brokerage and similar professional fees and charges) incurred by the Trustee and the Grantee in connection with the Trustee's and the Grantee's interpretation, recordation of this Deed of Trust, exercise, preservation or enforcement of any of its rights, remedies and options set forth in this Deed of Trust and in connection with any litigation, proceeding or dispute whether arising hereunder or otherwise relating to the Obligations, together with interest thereon to the extent permitted by applicable law, until paid in full by the Grantor at the highest rate set forth in any of the notes evidencing the Obligations. As used in this Deed of Trust, the term "attorneys' fees" or "expenses" (or similar references to attorneys' fees and costs or expenses of Lender) shall mean all attorneys' and paralegals' fees and expenses, whether in an action or proceeding, upon appeal therefrom, or in connection with any petition for review or action for rescission, or in a case or proceeding under the Bankruptcy Code or successor statute, including the adjudication to any issues that particularly relate thereto, or in connection with any other action to interpret or enforce any of the provisions of this Deed of Trust (whether or not suit is filed), and all costs of searching records, obtaining title reports, surveyor reports, title insurance, trustee fees and other reasonable costs incurred by Lender and its successors in connection with the matters referenced herein, that are necessary or advisable at any time in the opinion of any such person for the protection of its interest or enforcement of its rights. Any amounts owed by the Grantor hereunder shall be, until paid, part of the Obligations and secured by this Deed of Trust, and the Grantee shall be entitled, to the extent permitted by law, to receive and retain such amounts in any action for a deficiency against or redemption by the Grantor, or any accounting for the proceeds of a foreclosure sale or of insurance proceeds.

5.2 Indemnification Regarding Leases. The Grantor hereby agrees to defend, and does hereby indemnify and hold the Beneficiary, Trustee, and each of their respective directors, officers, employees, agents and attorneys (each an "Indemnitee") harmless from all losses, damages, claims, costs or expenses (including attorneys' fees and expenses) resulting from the assignment of the Leases and from all demands that may be asserted against such Indemnitees arising from any undertakings on the part of the Grantee to perform any obligations under the Leases. It is understood that the assignment of the Leases shall not operate to place responsibility for the control or management of the Property upon the Grantee or any Indemnitee or make them liable for performance of any of the obligations of the Grantor under Leases, respecting any condition of the Property or any other agreement or arrangement, written or oral, or applicable law.

5.3 Indemnitee's Expenses. If any Indemnitee is made a party defendant to any litigation or any claim is threatened or brought against such Indemnitee concerning this Deed of Trust or the Property or any part thereof or therein or concerning the construction, maintenance, operation or the occupancy or use thereof by the Grantor or other person or entity, then the Grantor shall indemnify, defend and hold each Indemnitee harmless from and against all liability by reason of said litigation or claims, including attorneys' fees and expenses incurred by such Indemnitee in connection with any such litigation or claim, whether or not any such litigation or claim is prosecuted to judgment. The within indemnification shall survive payment of the Obligations, and/or any termination, release or discharge executed by the Grantee in favor of the Grantor.

5.4 Waivers. The Grantor waives notice of nonpayment, demand, presentment, protest or notice of protest of the Obligations and all other notices, consents to any renewals or extensions of time of payment thereof, and generally waives any and all suretyship defenses and defenses in the nature thereof. No delay or omission of the Grantee in exercising or enforcing any of its rights, powers, privileges, remedies, immunities or discretion (all of which are hereinafter collectively referred to as "the Grantee's rights and remedies") hereunder shall constitute a waiver thereof; and no waiver by the Grantee of any default of the Grantor hereunder or of any demand shall operate as a waiver of any other default hereunder or of any other demand. No term or provision hereof shall be waived, altered or modified except with the prior written consent of the Grantee, which consent makes explicit reference to this Deed of Trust. Except as provided in the preceding sentence, no other agreement or transaction, of whatsoever nature, entered into between the Grantee and the Grantor at any time (whether before, during or after the effective date or term of this Deed of Trust) shall be construed as a waiver, modification or limitation of any of the Grantee's rights and remedies under this Deed of Trust (nor shall anything in this Deed of Trust be construed as a waiver, modification or limitation of any of the Grantee's rights and remedies under any such other agreement or transaction) but all the Grantee's rights and remedies not only under the provisions of this Deed of Trust but also under any such other agreement or transaction shall be cumulative and not alternative or exclusive, and may be exercised by the Grantee at such time or times and in such order of preference as the Grantee in its sole discretion may determine.

5.5 Waiver of Homestead. To the maximum extent permitted under applicable law, the Grantor hereby waives and terminates any homestead rights and/or exemptions respecting the Property under the provisions of any applicable homestead laws, including, without limitation, Revised Code of Washington Chapter 6.13.

5.6 Time of the Essence. Time is of the essence of the performance of Grantor's obligations under this Deed of Trust.



200806300174
Skagit County Auditor

5.7 Joint and Several. If there is more than one Grantor, each of them shall be jointly and severally liable for payment and/or performance of all obligations secured by this Deed of Trust and the term "Grantor" shall include each as well as all of them.

5.8 Severability. If any provision of this Deed of Trust or portion of such provision or the application thereof to any person or circumstance shall to any extent be held invalid or unenforceable, the remainder of this Deed of Trust (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.

5.9 Complete Agreement. This Deed of Trust and the other Loan Documents constitute the entire agreement and understanding between and among the parties hereto relating to the subject matter hereof, and supersedes all prior proposals, negotiations, agreements and understandings among the parties hereto with respect to such subject matter.

5.10 Binding Effect of Agreement. This Deed of Trust shall run with the land and be binding upon and inure to the benefit of the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and shall remain in full force and effect (and the Grantee shall be entitled to rely thereon) until all Obligations are fully and indefeasibly paid. The Grantee may transfer and assign this Deed of Trust and deliver any collateral to the assignee, who shall thereupon have all of the rights of the Grantee; and the Grantee shall then be relieved and discharged of any responsibility or liability with respect to this Deed of Trust and such collateral. Except as expressly provided herein or in the other Loan Documents, nothing, expressed or implied, is intended to confer upon any party, other than the parties hereto, any rights, remedies, obligations or liabilities under or by reason of this Deed of Trust or the other Loan Documents.

5.11 Notices. Any notices under or pursuant to this Deed of Trust shall be deemed duly received and effective if delivered in hand to any officer or agent of the Grantor or Grantee, or if mailed by registered or certified mail, return receipt requested, addressed to the Grantor or Grantee at the address set forth in this Deed of Trust or as any party may from time to time designate by written notice to the other party.

5.12 Reproductions. This Deed of Trust and all documents which have been or may be hereinafter furnished by the Grantor to the Grantee may be reproduced by the Grantee by any photographic, photostatic, microfilm, xerographic or similar process, and any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made in the regular course of business).

5.13 Governing Law. Washington law shall govern all matters pertaining to the Loan Documents and this Deed of Trust other than "local issues," which shall be governed by the laws of the State where the Property is located. For purposes of this Deed of Trust, the term "local issues" refers to the provisions of this Deed of Trust which pertain to (a) whether a transaction transfers or creates an interest in real or personal property situated in the state where the Property is located for security purposes or otherwise, (b) the nature of an interest in real or personal property situated in where the state where the Property is located that is transferred or created by a transaction, (c) a method for foreclosure of a lien or security interest in real or personal property situated in the state where the Property is located, (d) the nature of an interest in real or personal property situated in the state where the Property is located that results from a foreclosure, (e) the manner and effect of recording or failing to record evidence of a transaction that transfers or creates an interest in real or personal property situated in the State where the Property is located, or (f) any other matters contained in the Loan Documents which are purported to be governed by the Uniform Commercial Code.

5.14 Jurisdiction and Venue. The Grantor irrevocably submits to the nonexclusive jurisdiction of any Federal or state court sitting in Illinois and any Federal or state court sitting in Washington, over any suit, action or proceeding arising out of or relating to this Deed of Trust. The Grantor irrevocably waives, to the fullest extent it may effectively do so under applicable law, any objection it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that the same has been brought in an inconvenient forum. The Grantor hereby consents to process being served in any such suit, action or proceeding (i) by the mailing of a copy thereof by registered or certified mail, postage prepaid, return receipt requested, to the Grantor's address set forth herein or such other address as has been provided in writing to the Grantee and (ii) in any other manner permitted by law, and agrees that such service shall in every respect be deemed effective service upon the Grantor.

5.15 **JURY WAIVER.** THE GRANTOR AND THE GRANTEE EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY, AND AFTER AN OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL, (A) WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING IN CONNECTION WITH THIS DEED OF TRUST, THE OBLIGATIONS, ALL MATTERS CONTEMPLATED HEREBY AND DOCUMENTS EXECUTED IN CONNECTION HERewith AND (B) AGREE NOT TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CAN NOT BE, OR HAS NOT BEEN WAIVED. THE GRANTOR CERTIFIES THAT NEITHER THE GRANTEE NOR ANY OF ITS REPRESENTATIVES, AGENTS OR COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE GRANTEE WOULD NOT IN THE EVENT OF ANY SUCH PROCEEDING SEEK TO ENFORCE THIS WAIVER OF RIGHT TO TRIAL BY JURY.

5.16 Illinois Deed of Trust Foreclosure Act. It is the express intention of Lender and Grantor that the rights, remedies, powers and authorities conferred upon Lender pursuant to this Deed of Trust shall include all rights, remedies, powers and authorities that a Grantor may confer upon a Trustee under the Act and/or as otherwise permitted by applicable law, as if they were expressly provided herein. In the event



that any provision in this Deed of Trust is deemed inconsistent with any provisions in the Act, the provisions of the Act shall take precedence over the provisions of this Deed of Trust, but shall not invalidate or render unenforceable any other provision of this Deed of Trust that can be construed in a manner consistent with the Act. If any provision of this Deed of Trust shall grant to Lender (including Lender acting as a Trustee-in-possession) any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Lender or in such receiver under the Act in the absence of said provision, Lender and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

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.



EXECUTED as of the date first above written.

Witness:

Grantor:

Mt. Vernon Office Pet Partners, Limited Partnership

By: VPI, Inc., General Partner

Alan G. DeBolt

By:

Robert Isackson

Robert Isackson, President

STATE OF _____

:
SS.
:

COUNTY OF _____

On this ____ day of _____, 20____, personally appeared before me Robert Isackson, to me known to be the President of VPI, Inc., named in the foregoing instrument as General Partner of Mt. Vernon Office Pet Partners, Limited Partnership, a Washington Limited Partnership, the Limited Partnership that executed the within and foregoing instrument, and acknowledged that said instrument to be the free and voluntary act and deed of said Limited Partnership, for the uses and purposes therein mentioned, and on oath stated that he/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)

(Print Name)

Notary Public in and for the State of Washington

Residing at _____

My commission expires _____



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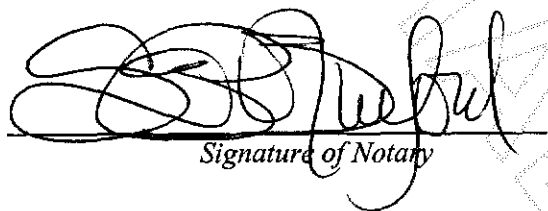
Skagit County Auditor

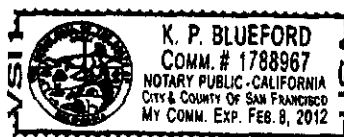
State of California)
County of San Francisco)

On June 25, 2008, before me, K. P. Blueford, a Notary Public in and for said County and State, personally appeared Robert Isackson, who proved 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(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Signature of Notary



(For notary seal or stamp)



200806300174
Skagit County Auditor

EXHIBIT "A"

Property Description

The land referred to in this report/policy is situated in the State of Washington, County of Skagit, and is described as follows:

Lots 2 and 2A, City of Mount Vernon Binding Site Plan No. MV-1-94 BSP, approved may 31, 1994, and recorded May 31, 1994, in Volume 11 of Short Plats, page 77, under Auditor's File No. 9405310129, records of Skagit County, Washington, being a portion of the Northeast ¼ of Section 18, Township 34 North, Range 4 East, W.M..

TOGETHER WITH that portion of Lot 3A, said Binding Site Plan, described as follows:

Beginning at the Southeast corner of said Lot 3A; thence West, 504.00 feet along the South line thereof to the Westerly line of said Lot 3A; thence North 09°48'40" West, 36.04 feet along said Westerly line; thence South 89°50'52" East, 207.04 feet; thence South 00°09'08" West, 5.00 feet; thence South 89°50'52" East, 214.76 feet; thence North 00°09'08" East, 40.35 feet; thence North 89°56'35" East, 87.76 feet to the East line of said Lot 3A; thence South 00°24'07" East, 69.83 feet along said East line to the point of beginning.

ALSO TOGETHER WITH the following described portion of Lot 2B of said Mount Vernon Binding Site Plan No. MV-1-94BSP.

Beginning at the Northeast corner of said Lot 2B; thence South 00°00'00" West, 4.72 feet; thence North 90°00'00" East, 129.04 feet; thence North 00°00'00" West, 4.72 feet; thence South 90°00'00" East, 129.04 to the point of beginning.

AND TOGETHER WITH that portion of Lot 2B, Mount Vernon Binding Site Plan No. MV1-94 BSP, described as follows:

Beginning at the Southeast corner of Lot 2B; thence North 90°00'00" West 0.54 feet; thence North 0°00'00" East 149.92 feet; thence South 90°00'00" East 0.54 feet to the East line of said Lot 2B; thence South 0°00'00" East 149.92 feet to the true point of beginning.

EXCEPT that portion of said Lot 2 and 2A described as a whole as follows:

Beginning at the Northwest corner of said Lot 2B of Mount Vernon Binding Site Plan No. MV-1-94BSP; thence North 00°20'56" West, 25.08 feet; thence South 90°00'00" East, 93.06 feet; thence South 00°00'00" West, 25.08 feet; thence North 90°00'00" West, 92.91 feet to the point of beginning.

AND EXCEPT that portion of Lot 2 and of Lot 2B, Mount Vernon Binding Site Plan No. MV1-94 BSP, described as follows:

Beginning at the Northwest corner of said Lot 2B; thence North 90°00'00" East 92.91 feet to the true point of beginning; thence North 0°00'00" East 8.49 feet; thence North 90°00'00" East 128.5 feet; thence South 0°00'00" East 13.21 feet; thence North 90°00'00" West 128.5 feet; thence North 0°00'00" East 4.72 feet to the point of beginning.



EXHIBIT "B"

Permitted Encumbrances

A. MATTERS AS DISCLOSED AND/OR DELINEATED ON THE FACE OF THE FOLLOWING BINDING SITE PLAN:

Binding Site Plan: MV-1-94
Recorded: May 31, 1994
Auditor's No.: 9405310129

Said matters include but are not limited to the following:

1. An easement is hereby reserved for and granted to Public Utility District No. 1 of Skagit County; Puget Sound Power & Light Company, Inc.; Cascade Natural Gas Corporation; G.T.E.; and T.C.I. Cablevision of Washington, Inc., and their respective successors and assigns under and upon the exterior 7 feet of front and 5 feet of side boundary lines and under and upon the exterior 10 feet of rear boundary line of all lots and tracts, in which to install, lay, construct, renew, operate, maintain and remove utility systems, lines, fixtures and appurtenances attached thereto, for the purpose of providing utility service to the subdivision and other property, together with the right to enter upon the lots and tracts at all times for the purposes stated, with the understanding that any grantee shall be responsible to all unnecessary damage it causes to any real property owner in the subdivision by the exercise of rights and privileges herein granted.

Upon recordation of this Binding Site Plan and Dedication of the street right-of-way shown, the City of Mount Vernon does hereby relinquish all rights described in that easement recorded under Auditor's File No. 8410010038, Volume 576, pages 349 and 350, records of Skagit County, Washington.

2. Know all men by these presents that we, the undersigned, owners in fee simple of the land hereby platted, hereby declare this Binding Site Plan and dedicate to the public forever, all roads, easements and ways shown hereon with the right to make all necessary slopes for cuts and fills, and the right to continue to drain said roads and ways over and across any lot or lots, where water might take a natural course, in the original reasonable grading of the roads and ways shown hereon.

Partial release of easement shown on said Binding Site Plan was recorded on April 25, 2000 under Auditor's File No. 200004250059.

B. EASEMENT, INCLUDING TERMS AND PROVISIONS THEREOF:

Grantee: Puget Sound Power & Light Co.
Dated: September 19, 1994
Recorded: October 3, 1994
Auditor's No.: 9410030099
Purpose: Right to enter said premises to operate, maintain, and repair underground electric transmission and/or distribution system, and/or distribution system, together with the right to remove brush, trees and landscaping which may constitute a danger to said lines.

Area Affected:

A 10 foot wide strip, the exact location of which is not disclosed. Being described "as constructed or to be constructed".



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Skagit County Auditor

C. PROTECTIVE COVENANTS AND/OR EASEMENTS, BUT OMITTING RESTRICTIONS, IF ANY, BASED ON RACE, COLOR, RELIGION OR NATIONAL ORIGIN:

Dated: March 2, 1995
Recorded: March 8, 1995
Auditor's No.: 9503080064
Executed By: Safeway, Inc., a Delaware corporation

ABOVE COVENANTS, CONDITIONS AND RESTRICTIONS WERE AMENDED AS FOLLOWS:

Declaration Dated: October 16, 1995
Recorded: October 19, 1995
Auditor's No.: 9510190001

ABOVE COVENANTS, CONDITIONS AND RESTRICTIONS WERE AMENDED AS FOLLOWS:

Declaration Dated: September 12, 1996
Recorded: September 13, 1996
Auditor's No.: 9609230087

ABOVE COVENANTS, CONDITIONS AND RESTRICTIONS WERE AMENDED AS FOLLOWS:

Declaration Dated: March 19, 1997
Recorded: March 20, 1997
Auditor's No.: 9703200098

ABOVE COVENANTS, CONDITIONS AND RESTRICTIONS WERE AMENDED AS FOLLOWS:

Declaration Dated: July 8, 1997
Recorded: July 11, 1997
Auditor's No.: 9707110082

D. PROTECTIVE COVENANTS AND/OR EASEMENTS, BUT OMITTING RESTRICTIONS, IF ANY, BASED ON RACE, COLOR, RELIGION OR NATIONAL ORIGIN:

Dated: February 7, 1997
Recorded: March 13, 1997
Auditor's No.: 9703130116
Executed By: Safeway, Inc.

E. EASEMENT AND PROVISIONS THEREIN:

Grantee: Puget Sound Power & Light Company
Recorded: June 23, 1998
Auditor's No.: 9806230113
Purpose: Right to construct, operate, maintain, repair, replace and enlarge one or more electric transmission and/or distribution lines over and/or under the right of way;
Affects: Portion of subject property



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F. EASEMENT AND PROVISIONS THEREIN:

Grantee: Puget Sound Power & Light Company
Recorded: April 15, 1999
Auditor's No.: 9904150012
Purpose: Right to construct, operate, maintain, repair, replace and
enlarge one or more electric transmission and/or distribution
lines over and/or under the right of way;
Affects: Portion of subject property

G. EASEMENT, INCLUDING TERMS AND PROVISIONS THEREOF:

Grantee: Public Utility District No. 1 of Skagit County, Washington
Dated: April 14, 1999
Recorded: June 29, 1999
Auditor's Nos.: 9906290012 and 9906290013
Purpose: Water pipeline
Area Affected: Portion of subject property



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