

RECORDING REQUESTED BY
UNION BANK, N.A.

AND WHEN RECORDED, MAIL TO:

UNION BANK, N.A.
Attn: L. Southerland / CRELA
145 S. State College Blvd., #600
Brea, CA 92821



Skagit County Auditor
8/28/2013 Page

1 of 22 11:51AM
\$93.00

LAND TITLE OF SKAGIT COUNTY

131297-P

Space Above This Line for Recorder's Use

MODIFICATION AGREEMENT (SHORT FORM)

Grantor (Borrower/Trustor): S/G Properties, L. P.

Grantee (Lender/Beneficiary): Union Bank, N.A.

Legal Description (abbreviated): Ptn SW 1/4 Of SW 1/4, 2-34-3 E W.M. & Ptn SE 1/4 Of SE 1/4 & SW 1/4 Of SE 1/4, 3-34-3 E W.M.

(Additional Legal(s) on Exhibit A).

Assessor's Tax Parcel I.D.#: 340302-3-003-0400 (P103461), 340302-3-003-0500 (P103462), 340303-4-003-0003 (P21092), 340303-4-005-0001 (P21096)

Reference No. Documents Released or Assigned: _____

Date: August 8, 2013

RECITALS

The undersigned agree that the following documents: (i) that certain promissory note dated October 20, 2008 in the stated principal amount of Three Hundred Twenty Thousand and 00/100 Dollars (\$320,000.00) (the "Original Note") executed by S/G Properties, L. P., a Washington limited partnership as Debtor, and (ii) that certain mortgage securing the same executed by S/G Properties, L.P., a Washington limited partnership as Trustor and recorded on October 23, 2008, as Instrument/Serial No. 200810230010 in Book/Reel N/A, Page/Image(s) N/A, in Official Records, County of Skagit, State of Washington, (the "Mortgage") be and are amended upon the terms and conditions set forth in that certain Modification Agreement (Long Form) between the undersigned dated August 8, 2013

The Modification Agreement (Long Form) is by this reference incorporated herein and made a part hereof. The Mortgage affects that certain real property described in Exhibit "A" attached hereto and incorporated by this reference.

MODIFICATION OF MORTGAGE

It is further agreed that said Mortgage shall be and is hereby amended, restated, replaced and superseded in its entirety by the Amended and Restated Mortgage attached here to as Exhibit "B", and modified as follows:

IN WITNESS WHEREOF, the parties hereto have executed this Modification Agreement (Short Form) as of the date first written above.

DEBTOR AND TRUSTOR:

S/G Properties, L. P., a Washington limited partnership

By: *Bryan S. Sakuma*
Bryan S. Sakuma, General Partner

By: *Satoru Sakuma*
Satoru Sakuma, General Partner

BENEFICIARY:

UNION BANK, N.A.

Successor in interest to the FDIC, as Receiver of Frontier Bank

By: *Cynthia Rafael*
Name: *Cynthia Rafael*
Title: *Vice President*



EXHIBIT "A"
DESCRIPTION OF REAL PROPERTY

THIS EXHIBIT "A" IS ATTACHED TO THAT CERTAIN MODIFICATION AGREEMENT DATED August 8, 2013.

ASSESSOR'S PARCEL NUMBER(S) OF COLLATERAL PROPERTY:

340302-3-003-0400 (P103461), 340302-3-003-0500 (P103462), 340303-4-003-0003 (P21092), 340303-4-005-0001 (P21096)

LEGAL DESCRIPTION:

PARCEL "A":

That portion of the Southwest ¼ of the Southwest ¼ of Section 2, Township 34 North, Range 3 East, W.M., lying Southerly of Ovenell Road, EXCEPT dike and ditch rights of way.

Situate in the County of Skagit, State of Washington.

PARCEL "B":

That portion of the Southeast ¼ of the Southeast ¼ of Section 3, Township 34 North, Range 3 East, W.M., lying Southerly of Ovenell Road, EXCEPT ditch and dike rights of way.

Situate in the County of Skagit, State of Washington.

PARCEL "C":

That portion of the East ½ of the Southwest ¼ of the Southeast ¼ of Section 3, Township 34 North, Range 3 East, W.M., lying South of the centerline of the Boyd Hill ditch, being more particularly described as follows:

Beginning at the Southeast corner of the Southwest ¼ of the Southeast ¼ of said Section 3, said point being North 89°17'30" West, 1,312.9 feet from the Section corner common to Sections 2, 3, 10 and 11;
thence along the South line of said Southwest ¼ of the Southeast ¼, North 89°17'30" West, 656.4 feet to the West line of the East ½ of said Southwest ¼ of the Southeast ¼;
thence North 01°01'00" West, 676.3 feet to the centerline of the Boyd Hill ditch, which point is witnessed by a 2 inch iron pipe set South 01°01'00" East, 10 feet;
thence along the centerline of said Boyd Hill ditch, North 58°00'30" East, 405.3 feet;
thence North 42°09'30" East, 340.8 feet;
thence South 89°56'30" East, 76.7 feet to the East line of said Southwest ¼ of the Southeast ¼ of said Section 3, said point being witnessed by a 2 inch iron pipe set South 00°57'30" East, 10.0 feet;
thence South along the East line of said Southwest ¼ of the Southeast ¼ to the point of beginning, EXCEPT that portion, if any, lying within the boundaries of the as built and existing County road commonly known as Ovenell Road, AND EXCEPT ditch and dike rights of way, if any.

Situate in the County of Skagit, State of Washington.



RECORDING REQUESTED BY:
UNION BANK, N.A.

EXHIBIT "B"

AND WHEN RECORDED MAIL TO:

UNION BANK, N.A.
Attn: L. Southerland / CRELA
145 S. State College Blvd., #600
Brea, CA 92821

Instructions to County Recorder:
Index this document as:
(1) a Mortgage, and
(2) a fixture filing.

Space Above This Line For Recorder's Use

**AMENDED AND RESTATED MORTGAGE, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**

Grantor (Trustor): S/G Properties, L.P.
Grantee (Beneficiary): Union Bank, N.A.
Legal Description (abbreviated): Ptn SW ¼ Of SW ¼, 2-34-3 E W.M. & Ptn SE ¼ Of SE ¼ & SW ¼ Of SE ¼, 3-34-3 E W.M.

(Additional Legal(s) on Exhibit A).

Assessor's Tax Parcel I.D.#: 340302-3-003-0400 (P103461), 340302-3-003-0500 (P103462), 340303-4-003-0003 (P21092), 340303-4-005-0001 (P21096)

Reference No. Documents Released or Assigned: _____

THE PROPERTY AND IMPROVEMENTS (AS DEFINED IN THE "GRANT IN TRUST" SECTION BELOW) ARE NOT USED PRINCIPALLY FOR AGRICULTURAL OR FARMING PURPOSES.

THIS AMENDED AND RESTATED MORTGAGE (this "Mortgage") is made as of the 8th day of August, 2013 by S/G Properties, L.P., a Washington limited partnership as Trustor, whose mailing address is 15522 Benson Road, Bow, WA 98232, in favor of Frontier Bank as Lender, for the benefit of UNION BANK, N.A., successor in interest to the FDIC as Receiver of Frontier Bank, as Beneficiary, whose mailing address is 145 S. State College, Suite 600, Brea, CA 92821.

This Mortgage amends, restates, replaces and supersedes in its entirety that certain Mortgage executed by Grantor dated October 20, 2008 and recorded on October 23, 2008 as Instrument/Serial No. 200810230010, in the Official Records of the County of Skagit, State of Washington.

1. **GRANT IN TRUST.** For the purpose of securing payment and performance of the Secured Obligations (as defined in the "SECURED OBLIGATIONS" Section below), Trustor hereby irrevocably and unconditionally grants, conveys, transfers and assigns to Trustee, its successors and assigns, IN TRUST, WITH POWER OF SALE TOGETHER WITH THE RIGHT OF ENTRY AND POSSESSION, for the benefit and security of Beneficiary, all present and future rights, titles, interests, estates, powers and privileges that Trustor now has or may hereafter acquire in or to the following property and any interest therein (collectively, the "Trust Estate"):



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1.1 The real property located in the County of Skagit, State of Washington, more particularly described in Exhibit "A" attached hereto (the "Real Property");

1.2 All buildings and other improvements and structures now or hereafter located on the Real Property (collectively, the "Improvements" and together with the Real Property shall sometimes be referred to as "Property");

1.3 All existing and future leases, subleases, subtenancies, licenses, agreements and concessions relating to the use, occupancy or enjoyment of all or any part of the Property, together with any and all guaranty and other agreements relating to or made in connection with any of the foregoing (individually, a "Lease", and collectively, the "Leases");

1.4 All rents, issues, income, revenues, royalties, profits, proceeds and earnings now or hereafter payable with respect to or otherwise derived from the ownership, use, management, operation, leasing or occupancy of the Property, including, without limitation, cash or security deposited under any of the Leases to secure the performance by the lessees of their obligations thereunder (collectively, the "Rents");

1.5 All tenements, hereditaments, appurtenances, privileges, choses in action, options to purchase all or any part of the Property or any interest therein (and any greater estate in the Property now owned or hereafter acquired by Trustor pursuant thereto), and other rights and interests now or in the future benefiting or otherwise relating to the Property, including, without limitation, easements, rights-of-way, sidewalks, alleys and strips and gores of land adjacent to or used in connection with the Property, development rights, oil, gas or other mineral rights and all royalty, leasehold and other rights of Trustor pertaining thereto;

1.6 All water and water rights pertaining to the Real Property, and shares of stock evidencing the same, and all deposits made with or other security given to utility companies by Trustor with respect to the Property;

1.7 All policies of insurance and all claims, demands or proceeds relating to such insurance or condemnation awards, recoveries or settlements which Trustor now has or may hereafter acquire with respect to the Property, including all advance payments of insurance premiums made by Trustor with respect thereto;

1.8 All inventory, furnishings, fixtures, equipment, supplies, construction materials, goods and other articles of personal property, which are now or hereafter owned by Trustor and located at, placed upon or about, or affixed or attached to or installed in or on the Property or any part thereof, and used or to be used in connection with or otherwise relating to the Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy thereof, and all accessories, attachments, parts, or repairs of or to any of such property;

1.9 All (a) accounts, general intangibles, chattel paper, letter of credit rights, deposit accounts, money, investment property, documents, certificates of title and instruments (whether negotiable or nonnegotiable), contract rights, insurance policies, and all rights to payment of any kind relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate, (b) refunds, rebates, reserves, deferred payments, deposits, cost savings and payments of any kind due from or payable by (i) any federal, state, municipal or other governmental or quasi-governmental agency, authority or district (individually, a "Governmental Agency"), or (ii) any insurance or utility company, in either case relating to any or all of the Trust Estate, (c) refunds, rebates and payments of any kind due from or payable by any Governmental Agency for any taxes, assessments, or governmental or quasi-governmental charges or levies imposed upon Trustor with respect to or upon any or all of the Trust Estate, (d) cash collateral accounts maintained pursuant to any of the Loan Documents (as defined in the



"Inspections" Section below), and (e) any amounts owing from Beneficiary to Trustor under any interest rate swap or similar agreement heretofore or hereafter entered into between Trustor and Beneficiary; and

1.10 All supporting obligations for, additions, accessions, improvements and accretions to, substitutions and replacements for, and proceeds and products of, any of the foregoing.

2. SECURED OBLIGATIONS. Trustor makes the grant, conveyance, transfer and assignment set forth in the "GRANT IN TRUST" Section above FOR THE PURPOSE OF SECURING the following obligations (collectively, the "Secured Obligations") in such order of priority as Beneficiary may elect:

2.1 Payment of all sums at any time owing and the performance of all other obligations arising under that certain promissory note in the original principal amount of Three Hundred Twenty Thousand and 00/100 Dollars (\$320,000.00) dated October 20, 2008 executed by S/G Properties, L. P., a Washington limited partnership ("Obligor") to the order or in favor of Frontier Bank, and any and all modifications, replacements, extensions and renewals thereof (collectively, the "Debt Instrument"), whether hereafter evidenced by the Debt Instrument or otherwise;

2.2 Payment of interest on such sums according to the terms of the Debt Instrument;

2.3 Payment of all other sums, including late charges and any attorney's fees and other advances made by Beneficiary hereunder as hereinafter provided, with interest thereon as hereinafter provided, which are due or payable to Trustee or Beneficiary under the provisions hereof;

2.4 Due, prompt and complete observance, performance and discharge of each and every obligation, covenant and agreement of Trustor contained herein, of Obligor in the Debt Instrument or in the Loan Agreement, if any, executed by Trustor or Obligor, as the case may be, in connection with the indebtedness evidenced by the Debt Instrument, and all supplements, amendments and modifications thereto and all extensions and renewals thereof, or in any other instrument or document heretofore or hereafter executed by Trustor or Obligor having reference to or arising out of the indebtedness evidenced by the Debt Instrument which recites that the obligations thereunder are secured hereby;

2.5 Payment of such additional sums as may be hereafter borrowed from Beneficiary by Trustor or Obligor (or guaranteed by Trustor) when evidenced by a debt instrument or instruments (or guaranty or guaranty, as the case may be) which are by the terms thereof (or by the terms of any other instrument executed by Trustor or Obligor, as the case may be, in connection therewith) secured by this Mortgage, together with interest and late charges thereon according to the terms of such debt instrument or instruments;

2.6 The obligations of Trustor or Obligor under any interest rate swap or similar agreement heretofore or hereafter entered into between Trustor and Beneficiary with respect to all or any part of the indebtedness now or hereafter secured hereby that is evidenced by one or more promissory notes, and any and all modifications, replacements, extensions and renewals thereof; and

2.7 Performance of such future obligations which Trustor or Obligor may agree to perform for the benefit of Beneficiary when Trustor or Obligor executes a document or documents reciting that such obligations are secured hereby.

3. AFFIRMATIVE COVENANTS OF TRUSTOR. Trustor hereby agrees as follows:

3.1 **Performance of Obligations.** To pay, perform, observe and discharge each and every condition, obligation, covenant and agreement for which this Mortgage has been given as security as provided above.



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3.2 Maintenance, Repair and Alterations. To keep the Trust Estate in good condition and repair; not to remove, demolish or substantially alter any of the Improvements without the prior written consent of Beneficiary; to notify Beneficiary in writing of any material damage or destruction to the Trust Estate or any portion thereof immediately upon Trustor obtaining knowledge of same, whether or not covered by insurance; to complete or restore promptly and in good and workmanlike manner any Improvements which may be constructed, damaged or destroyed on the Real Property and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws, ordinances, regulations, covenants, conditions and restrictions (including, without limitation, the directives of any Governmental Agency) now or hereafter affecting the Trust Estate or any part thereof or requiring any alterations, improvements or additions to be made thereon; not to commit or permit any waste or deterioration of the Trust Estate; to keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair; to perform, in the event all or any portion of the Trust Estate constitutes a leasehold estate, each and every obligation of Trustor under the terms of the agreements creating such leasehold estate; and not commit, suffer or permit any act to be done in or upon the Trust Estate in violation of any law, ordinance or regulation.

3.3 Insurance

(a) Coverage. To keep Improvements insured at all times against loss or damage with property hazard insurance in an amount at least equal to the full insurable value of the Improvements (including tenant improvements) on a replacement cost basis, as determined by Beneficiary (as such insurable value may change from time to time) and against any other risk or hazard which in the opinion of Beneficiary should be insured against including, without limitation, earthquake, flood and business interruption (including rent loss and/or extra expense or as appropriate). Trustor shall also carry public liability insurance with coverage amounts as determined by Beneficiary (as such coverage amounts may change from time to time). All insurance policies shall (i) be in such form and with such endorsements as may be required by Beneficiary, (ii) provide a lender's loss payable endorsement or be endorsed with a standard non-contributory mortgage clause, as appropriate, in favor of Beneficiary, (iii) be underwritten by insurance providers acceptable to Beneficiary, and (iv) provide Beneficiary at least thirty (30) days' prior notice of cancellation, non-renewal or modification. The policy or policies evidencing all insurance required hereunder (or certificates of such insurance) shall be delivered to and held by Beneficiary. Trustor shall pay premiums on such insurance as they become due, and shall not permit any condition to exist on or with respect to the Property which would wholly or partially invalidate any insurance.

(b) Application of Proceeds. To pay to Beneficiary, promptly upon Trustor's receipt of same, any proceeds received by Trustor under any such insurance policy on account of any damage or destruction to the Improvements. Beneficiary shall have the right to join Trustor in adjusting any loss covered by any such insurance, and all loss under all such insurance shall be payable directly to Beneficiary, and Trustor hereby authorizes and empowers Beneficiary, at Beneficiary's sole option and in Beneficiary's sole discretion as attorney-in-fact for Trustor, to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Beneficiary's expenses incurred in the collection thereof. If Beneficiary elects not to exercise such right, Beneficiary shall be under no obligation to question the amount of any compensation, award, recovery, settlement, proceeds, damages, claims, rights of action or payments received under any policy of insurance on account of any damage or destruction to the Improvements, and may accept the same in the amount paid. In the event of any damage to or destruction of the Improvements, Beneficiary shall have the option, in its sole discretion, to: (i) apply, in the event Beneficiary determines that the security for the repayment of the indebtedness secured hereby has been impaired on account of such damage or destruction, all or any part of such proceeds to any indebtedness secured hereby in such order as Beneficiary



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may determine, whether or not such indebtedness is then due, (ii) release all or any part of such proceeds to Trustor, or (iii) hold the balance of such proceeds to be used to reimburse Trustor for the cost of reconstruction of the Improvements. In the event Beneficiary elects to so hold such insurance proceeds, the Improvements shall be promptly and diligently restored by Trustor to the equivalent of their condition immediately prior to such damage, destruction or casualty or to such other condition as Beneficiary may approve in writing, and the disbursement of such insurance proceeds shall be in accordance with disbursement procedures acceptable to Beneficiary. If Beneficiary elects to apply the insurance proceeds to the payment of the sums secured hereby, and after doing so Beneficiary reasonably determines that the remaining security is inadequate to secure the remaining indebtedness, Trustor shall, upon written demand from Beneficiary, prepay on principal such amount as will reduce the remaining indebtedness to a balance for which adequate security is present. Moreover, such application shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

3.4 Taxes. To (a) pay (unless Beneficiary impounds funds for payment of same, in which event Beneficiary shall pay) prior to delinquency, all real property taxes and assessments, general and special, and all other taxes, assessments and charges of any kind or nature whatsoever, which are imposed upon, assessed against or affect the Trust Estate or any part thereof, (b) pay when due all encumbrances, charges or liens of any kind or nature whatsoever, which create or may create a lien upon the Trust Estate or any part thereof or any interest therein, whether prior and superior or subject and subordinate to the lien hereof, and (c) deliver, upon Beneficiary's request, to Beneficiary, within ten (10) days after the date upon which any such tax, assessment, encumbrance, charge or lien is due and payable by Trustor, official receipts of the appropriate taxing authority (or other proof satisfactory to Beneficiary) evidencing the payment thereof.

3.5 Condemnation. Trustor, upon obtaining knowledge of the institution of any proceedings for the condemnation of the Trust Estate or any portion thereof, shall immediately notify Beneficiary of such fact in writing. Beneficiary shall have the right, but not the obligation, to participate in any such proceedings, to control same and to be represented therein by counsel of its choice at Trustor's expense, and Trustor shall deliver, or cause to be delivered, to Beneficiary such instruments as may be requested by it from time to time to permit such participation. All compensation, awards, recoveries, settlement, proceeds, damages, claims, rights of action and payments to which Trustor may become entitled to on account of such proceedings shall be paid to Beneficiary. Any sums so collected by Beneficiary shall first be applied to reimburse Trustor and Beneficiary for all costs and expenses, including reasonable attorneys' fees, incurred in connection with the collection of such sums, and the balance shall be applied, in the event Beneficiary determines that the security for the repayment of the indebtedness secured hereby has been impaired on account of such condemnation, to any indebtedness secured hereby in such order as Beneficiary may determine, whether or not such indebtedness is then due. Any surplus remaining after payment and satisfaction of any indebtedness secured hereby shall be paid to Trustor as its interest may then appear. If Beneficiary elects to apply the condemnation proceeds to the payment of the sums secured hereby, and after doing so Beneficiary reasonably determines that the remaining security is inadequate to secure the remaining indebtedness, Trustor shall, upon written demand from Beneficiary, prepay on principal such amount as will reduce the remaining indebtedness to a balance for which adequate security is present. Such application shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. Beneficiary shall be under no obligation to question the amount of any compensation, awards, recoveries, settlement, proceeds, damages, claims, rights of action or payments received in any such condemnation proceeding, and may accept the same in the amount paid.

3.6 CC&Rs. To promptly and completely observe, perform and discharge each and every condition, obligation, covenant and agreement affecting the Property, whether the same is prior and superior or subject and subordinate hereto, including, without limitation, if the Property is or will be a condominium, community apartment or part of a planned development project, each and every provision to be



performed by Trustor under any declaration of covenants, conditions and restrictions or the like pertaining thereto.

3.7 Actions Affecting Trust Estate. To appear in and defend, at Trustor's expense, any action or proceeding purporting to affect the Trust Estate, the security hereof or the rights or powers of Beneficiary or Trustee hereunder; and to pay all costs and expenses incurred by Beneficiary or Trustee, including attorneys' fees, in any such action or proceeding in which Beneficiary or Trustee may appear and in any suit brought by Beneficiary to foreclose this Mortgage or to exercise the power of sale hereunder.

3.8 Actions by Beneficiary to Preserve Trust Estate. Should Trustor fail to perform any of its obligations under this Mortgage, then Beneficiary, in its discretion, without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereunder, may make or do the same. In connection therewith, and without limiting its general powers, Beneficiary shall have and is hereby given the right, but not the obligation: (a) to enter upon and take possession of the Trust Estate or any part thereof, (b) to make additions, alterations, repairs and improvements to the Trust Estate or any part thereof which Beneficiary may consider necessary or proper to keep the Trust Estate in good condition and repair, (c) to commence, maintain, appear and participate in any action or proceeding affecting or which may affect, or which is necessary to protect, the security hereof or the rights or powers of Beneficiary or Trustee hereunder, (d) to pay, purchase, contest or compromise any encumbrance, claim, charge or lien which in the judgment of Beneficiary may affect or appears to affect the security of this Mortgage or which create or may create a lien upon the Trust Estate or any part thereof or interest therein, whether prior and superior or subject and subordinate to the lien hereof, and (e) in exercising such powers, to pay necessary expenses incurred in connection therewith, to employ counsel and other consultants, and to pay such counsel's or consultants' fees and expenses. Immediately upon demand therefor by Beneficiary, Trustor shall pay all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing rights, together with interest thereon according to the terms of the Debt Instrument, and all such sums shall be secured by this Mortgage.

3.9 Inspections. Beneficiary, through its agents, representatives or employees, is authorized to enter at any reasonable time upon or in any part of the Property for the purpose of (a) inspecting same, and (b) performing any of the acts it is authorized to perform hereunder or under the terms of this Mortgage, the Debt Instrument, the Construction Loan Agreement, if any, any guaranty thereof and any other instrument or agreement given to evidence or further secure the payment and performance of any obligation secured hereby (collectively, the "Loan Documents"). In the case of a request to transfer the Trust Estate or any part thereof in accordance with the terms hereof, Trustor shall pay all appraisal fees and related expenses incurred by Beneficiary in evaluating such request.

3.10 Books and Records. Trustor shall keep and maintain, or cause to be kept and maintained, proper and accurate books, records and accounts of the Trust Estate and of its own financial affairs to permit the preparation of financial statements therefrom. Beneficiary, through its agents, representative or employees, shall have the right, from time to time, at any time and at all times, during normal business hours, to examine, copy and audit such books, records and accounts. If the Property is at any time used for commercial or residential income purposes, Trustor shall deliver to Beneficiary, upon request, certified financial statements and profit-and-loss statements for Trustor and the Trust Estate prepared in accordance with generally accepted accounting principles.

3.11 Personal Property. Trustor shall not remove from the Property any Personal Property (as defined in the "SECURITY AGREEMENT" Section below) except in the ordinary course of business and then only if such removed property is replaced with similar property of comparable quality.



4. NEGATIVE COVENANTS OF TRUSTOR. Trustor hereby agrees as follows:

4.1 Other Financing. Trustor shall not create or permit to continue in existence any mortgage, pledge, security interest, lien, charge or encumbrance of any kind upon the Trust Estate or any part thereof or any interest therein except for: (a) the lien of this Mortgage, (b) liens for taxes and assessments not yet delinquent, and (c) such other liens or charges as are specifically approved in writing by Beneficiary. Trustor shall, at Trustor's expense, take all action necessary to promptly secure releases of all liens and encumbrances which in the opinion of Beneficiary are or may be prior and superior to Beneficiary's security interest.

4.2 Transfers.

(a) Transfer of Trust Estate. Trustor shall not, directly or indirectly, sell, convey, assign, further encumber, transfer, alienate or otherwise dispose of the Trust Estate or any part thereof or any interest therein, including, without limitation, air rights or development rights, whether voluntarily, involuntarily, by operation of law or otherwise, or lease all or any portion thereof or an undivided interest therein, or enter into an agreement so to do, without the prior written consent of Beneficiary. Any consent by Beneficiary permitting a transaction otherwise prohibited under this Section shall not constitute a consent to or waiver of any right of Beneficiary to withhold its consent on any subsequent occasion to a transaction not otherwise permitted by the provisions hereof.

(b) Transfer of Beneficial Interest. Without limiting the provisions of the subsection above, the occurrence of the following events, without Beneficiary's prior written consent, shall be deemed to constitute an unpermitted transfer of the Trust Estate: the issuance, sale, conveyance, transfer, disposition or encumbering, or the entering into of any agreement relating thereto, either voluntarily, involuntarily, by operation of law or otherwise, with respect to (i) more than ten percent (10%) in the aggregate at any time or over time of any class of the currently issued outstanding stock of or membership interest in Trustor, if a closely-held corporation or limited liability company, (ii) the beneficial interest in Trustor, if a trust, or (iii) a change of any general partner or joint venturer of Trustor, if a partnership or joint venture. For purposes of this subsection, "closely-held corporation" shall mean any corporation not listed on a national or regional stock exchange.

(c) Transfer of Duties. Trustor shall not transfer or delegate the duties of managing the Property under any management agreement, if any, to any person, firm, corporation, partnership, limited liability company or other entity without the prior written consent of Beneficiary.

5. ASSIGNMENT OF RENTS AND PERFORMANCE OF LEASES.

5.1 Assignment of Rents and Leases. Trustor hereby irrevocably absolutely and unconditionally assigns and transfers to Beneficiary all of Trustor's right, title and interest in and to the Leases and the Rents; provided, however, that so long as no Event of Default (as defined in the "Events of Default" Section below) has occurred and is continuing, Trustor shall have the right under a license granted hereby to collect and receive all Rents as trustee for the benefit of Beneficiary and to apply the amounts so collected first to the payment of costs and expenses associated with the ownership maintenance, operation and leasing of the Property, including, principal, interest and all other amounts required to be paid under the Loan Documents, before using or applying such Rents for any other purpose. No Rents or such other income shall be distributed or paid to Trustor, unless such costs and expenses which are then due have been paid in full. Thereafter, so long as no Event of Default has occurred, the balance may be distributed to Trustor. If an Event of Default has occurred and is continuing, Trustor's right to collect and receive the Rents under the license granted hereby shall cease and the license shall be revoked automatically and, pursuant to the "Termination of License" Section below, Beneficiary shall have the sole



right, with or without taking possession of the Property, to collect all Rents. This is an absolute assignment and not an assignment for security only.

5.2 Negative Covenants Regarding Leases. Trustor shall not, without the prior written consent of Beneficiary, (a) cancel, terminate or consent to the surrender of any Lease, if the Property is used for commercial purposes, (b) modify or in any way alter the terms of any Lease, (c) release any lessee or guarantor from any obligations or conditions to be performed by any lessee or guarantor under any Lease, if the Property is used for commercial purposes, (d) collect any rent from any lessee for a period of more than one (1) month in advance, or (e) execute any further assignment of any of its right, title and interest in the Leases and the Rents.

5.3 Affirmative Covenants Regarding Leases. Trustor shall (a) observe, perform and discharge each and every obligation, term, covenant, condition and agreement of Trustor under the Leases, (b) enforce the performance of each and every obligation, term, covenant, condition and agreement in the Leases to be performed by any lessee or guarantor thereof, (c) keep the Property leased at a good and sufficient rental and on such other terms and conditions as are reasonably acceptable to Beneficiary, (d) execute and deliver to Beneficiary upon demand, at any time and from time to time, any and all assignments and other instruments which Beneficiary may deem advisable to carry out the true purposes and intent of the assignment set forth in the "Assignment of Rents and Leases" Section above, and (e) at the request of Beneficiary, cause any or all tenants under a Lease to execute a subordination, nondisturbance and attornment agreement and estoppel certificate in form and substance satisfactory to Beneficiary, if the Property is used for commercial purposes.

6. SECURITY AGREEMENT. This Mortgage shall constitute a security agreement as that term is used in the Uniform Commercial Code as adopted in the state in which the Property is located (the "UCC") and Trustor hereby pledges and grants to Beneficiary, as additional collateral for the Secured Obligations, a security interest in all of the property described in the "GRANT IN TRUST" Section above which may be personal property (collectively, the "Personal Property"). Trustor shall procure any documents, including, without limitation, mortgagee or landlord waivers or subordination agreements, in form and substance satisfactory to Beneficiary, with respect to any and all Personal Property (or fixtures which are a part of the Trust Estate), deliver to Beneficiary any instrument, mark any chattel paper, give any notice and take any other actions which are necessary or desirable to perfect or to continue the perfection and priority of the security interest created hereunder, or to protect the Personal Property or fixtures against the rights, claims or interests of third parties, and to pay all costs incurred in connection therewith. Trustor hereby appoints Beneficiary as Trustor's true attorney-in-fact, coupled with an interest, to perform (but without any obligation to do so) any of the foregoing acts should Trustor fail to do so, irrevocable until such time as the Secured Obligations have been indefeasibly satisfied, to be exercised from time to time and at any time by Beneficiary following an Event of Default hereunder. Notwithstanding anything to the contrary contained in this Mortgage, Trustor agrees that Beneficiary is, and shall be deemed to be, the "secured party" as that term is defined in the UCC, and Beneficiary shall have all of the rights and remedies of a secured party under the UCC as well as any and all other rights and remedies available at law or in equity. Trustor, upon demand of Beneficiary, shall assemble the Personal Property and make it available to Beneficiary at the Property or a place which is reasonably convenient to Beneficiary, and Beneficiary's expense in retaking, holding, preparing for sale, selling or the like shall be borne by Trustor, such expenses to include Beneficiary's and Trustee's attorneys' fees incurred in connection therewith. Trustor agrees not to change Trustor's name or state of organization or residence, as the case may be, without Beneficiary's prior written consent.

7. EVENTS OF DEFAULT AND REMEDIES.

7.1 Events of Default. Any of the following events shall, at Beneficiary's option, constitute an event of default (an "Event of Default") hereunder:



(a) **Failure to Pay.** The failure of Trustor or Obligor to pay when due any installment of principal or interest under the Debt Instrument or any other sum as provided in any Loan Document or any other instrument or agreement secured hereby, whether at maturity, by acceleration or as part of a prepayment or otherwise;

(b) **Failure to Perform.** The failure of Trustor or Obligor to promptly and completely observe or perform any term, condition, covenant, agreement or obligation contained in this Mortgage, any other Loan Document or any other instrument or agreement secured hereby, and the continuation of such failure following the expiration of any applicable notice, cure or grace period, if any, provided for therein or herein;

(c) **Failure to Comply.** The failure of Trustor to comply with any term, condition, covenant, agreement, law, ordinance or regulation now or hereafter affecting the Trust Estate or any part thereof; or

(d) **Other Defaults.** The occurrence of any "default" or "event of default" under any of the other Loan Documents (as defined therein) or any other instrument or agreement secured hereby.

7.2 Remedies. Upon the occurrence of any Event of Default, Beneficiary may, at its option, declare all indebtedness secured hereby, and the same shall thereupon become, immediately due and payable without any presentment, demand, protest or notice of any kind. Thereafter, Beneficiary may, at its option:

(a) **Termination of License.** Terminate Trustor's right and license to collect the Rents, and either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Trust Estate or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Trust Estate, or any part thereof or interest therein, make, modify, enforce, cancel or accept the surrender of any Lease, increase the income therefrom or protect the security hereof and, with or without taking possession of the Trust Estate, sue for or otherwise collect the Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including, without limitation, attorneys' fees, upon any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of all or any portion of the Trust Estate, the collection of such Rents and the application thereof as aforesaid, or any of such acts, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of all or any portion of the Trust Estate or the collection, receipt and application of Rents, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Loan Documents or by law upon occurrence of any Event of Default, including the right to exercise the power of sale. Failure of Beneficiary at any time, or from time to time, to collect the Rents shall not in any manner affect the subsequent enforcement of Beneficiary of the right to collect the same.

(b) **Appointment of Receiver.** As a matter of right and without notice to Trustor or anyone claiming under Trustor, and without regard to the then value of the Trust Estate or the interest of Trustor therein, to apply to any court having jurisdiction to appoint a receiver or receivers of the Trust Estate, and Trustor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided in this Mortgage and shall continue as such and exercise all such powers until the later of (i) the date of confirmation of sale of the Trust Estate, (ii) the disbursement of all



proceeds of the Trust Estate collected by such receiver and the payment of all expenses incurred in connection therewith, and (iii) the termination of such receivership with the consent of Beneficiary or pursuant to an order by a court of competent jurisdiction.

(c) **UCC Remedies.** Exercise any and all remedies available to a secured party under the UCC in such order and in such manner as Beneficiary, in its sole discretion, may determine; provided, however, that the expenses of retaking, holding, preparing for sale or the like, shall include reasonable attorneys' fees and other expenses of Beneficiary and Trustee and be secured by this Mortgage.

(d) **Judicial Foreclosure of Mortgage.** Commence an action to foreclose this Mortgage as a mortgage, or specifically enforce any of the covenants hereof.

(e) **Power of Sale.** Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Trust Estate or any portion thereof to be sold, which notice Trustee or Beneficiary shall cause to be transmitted and recorded, if applicable, in accordance with governing law.

(i) Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and Election to Sell as then required by law and by this Mortgage. Trustee shall, without demand on Trustor or Obligor, after lapse of such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Trust Estate at the time and place of sale fixed by it in said Notice of Sale, either as a whole, or in separate lots or parcels or items as Beneficiary shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustor hereby expressly waives any right which it may have to direct the order in which any of the Trust Estate may be sold when it consists of more than one lot or parcel, and such order of sale, whether in a single sale or in multiple sales held on different days or at different times, shall be at the sole discretion of Beneficiary. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale to the extent permitted by law.

(ii) After deducting all costs, fees and expenses of Trustee and of this Mortgage, including costs of evidence of title and attorneys' fees of Trustee and Beneficiary in connection with such sale, and subject to applicable law, Trustee shall apply, in the following priority, the proceeds of sale to payment of: (A) first, all sums expended under the terms hereof, not then repaid, with interest thereon according to the terms of the Debt Instrument, (B) second, all other sums then secured hereby, in such order of priority and in such proportion as Beneficiary in its sole discretion may elect, and (C) the remainder, if any, to the person or persons legally entitled thereto.

(iii) Subject to applicable law, Trustee may postpone the sale of all or any portion of the Trust Estate by public announcement at the time and place of such sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement or subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale.



(f) **Other Remedies.** Exercise all other rights and remedies provided herein, in any Loan Document or other document or agreement now or hereafter securing all or any portion of the obligations secured hereby, or provided by law. Upon the occurrence of an Event of Default hereunder, Beneficiary may proceed in any sequence to exercise its rights hereunder with respect to all or any portion of the Trust Estate and all or any portion of the Personal Property, and to exercise its rights under the "SECURITY AGREEMENT" Section above with respect to all or any portion of the Personal Property in accordance with the provisions of the UCC.

7.3 Remedies Not Exclusive; Waiver. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Documents to Trustee or Beneficiary, or to which either of them may be otherwise entitled, may be exercised concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary. If there exists additional security for the obligations secured hereby, Beneficiary, at its sole option, and without limiting or affecting any of the rights or remedies hereunder, may exercise any of the rights or remedies to which it may be entitled hereunder either concurrently with whatever rights it may have in connection with such other security or in such order and in such manner as Beneficiary may deem fit without waiving any rights with respect to such other security.

8. NONBORROWER TRUSTOR.

8.1 Authority of Beneficiary. If any Trustor is not an obligor under the Debt Instrument (hereinafter, "Nonborrower Trustor"), Nonborrower Trustor hereby authorizes Beneficiary to perform any of the following acts at any time and from time to time, all without notice to Nonborrower Trustor and without affecting Beneficiary's rights or Nonborrower Trustor's obligations under this Mortgage: (a) alter any terms of the Debt Instrument or any part of it, including renewing, compromising, extending or accelerating, or otherwise changing the time for payment of, or increasing or decreasing the rate of interest on, the Debt Instrument or any part of it, (b) take and hold security for the Debt Instrument, accept additional or substituted security for the Debt Instrument, and subordinate, exchange, enforce, waive, release, compromise, fail to perfect, sell or otherwise dispose of any such security, (c) apply any security now or later held for the Debt Instrument in any order that Beneficiary in its sole discretion may choose, and direct the order and manner of any sale of all or any part of it and bid at any such sale, (d) release Obligor of its liability for the Debt Instrument or any part of it, and (e) substitute, add or release any one or more Guaranty or endorsers of the Debt Instrument. For purposes of this Section, all references to the Debt Instrument shall also include any instrument or agreement executed by Obligor currently with or subsequent to the date of this Mortgage which is secured by this Mortgage in accordance with the terms hereof.

8.2 Waivers of Nonborrower Trustor. Nonborrower Trustor hereby waives: (a) any right it may have to require Beneficiary to proceed against Obligor, proceed against or exhaust any security held from Obligor, or pursue any other remedy in Beneficiary's power to pursue, (b) any defense based on any legal disability of Obligor, any discharge or limitation of the liability of Obligor to Beneficiary, whether consensual or arising by operation of law or any bankruptcy reorganization, receivership, insolvency, or debtor-relief proceeding, or from any other cause, or any claim that Nonborrower Trustor's obligations exceed or are more burdensome than those of Obligor, (c) all presentments, demands for performance, notices of nonperformance, protests, notice of protest, notices of dishonor, notices of acceptance of this Mortgage and of the existence, creation or incurring of new or additional indebtedness of Obligor, and demands and notices of every kind, (d) any defense based on or arising out of any defense that Obligor may have to the payment or performance of the Secured Obligations or any part thereof, and (e) all rights of subrogation, reimbursement, indemnification and contribution (contractual, statutory or otherwise), including any claim or right of subrogation under the Bankruptcy Code (Title 11 of the U.S. Code) or any successor statute, all rights to enforce any remedy that the Beneficiary may have against Obligor, and all



rights to participate in any security now or later held by Beneficiary for the Debt Instrument. Nonborrower Trustor understands that if Beneficiary forecloses by trustee's sale on any other Mortgage (other than this Mortgage) securing the Secured Obligations, Nonborrower Trustor would then have a defense preventing Beneficiary from thereafter enforcing Beneficiary's rights and remedies against the Trust Estate. This defense arises because the trustee's sale under such other Mortgage would eliminate Nonborrower Trustor's right of subrogation, and therefore Nonborrower Trustor would be unable to obtain reimbursement from Obligor. Nonborrower Trustor specifically waives this defense and all rights and defenses that Nonborrower Trustor may have because the Secured Obligations are secured by real property. This means, among other things: (i) Beneficiary may exercise any rights or remedies which Beneficiary has or may have against the Trust Estate without first foreclosing on any real or personal property collateral pledged by Obligor; and (ii) if Beneficiary forecloses on any real property collateral pledged by Obligor: (A) the amount of the Secured Obligations may be reduced only by the price for which the collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price; and (B) Beneficiary may exercise its rights and remedies against the Trust Estate even if Beneficiary, by foreclosing on any real property collateral pledged by Obligor, has destroyed any right Nonborrower Trustor may have to collect from Obligor. This is an unconditional and irrevocable waiver of any rights and defenses Nonborrower Trustor may have because the Secured Obligations are secured by real property.

8.3 Obligor's Financial Condition. Nonborrower Trustor assumes full responsibility for keeping informed of Obligor's financial condition and business operations and all other circumstances affecting Obligor's ability to pay and perform its obligations to Beneficiary, and agrees that Beneficiary shall have no duty to disclose to Nonborrower Trustor any information which Beneficiary may receive about Obligor's financial condition, business operations or any other circumstances bearing on Obligor's ability to perform.

8.4 Dispute Resolution. This Mortgage hereby incorporates any alternative dispute resolution agreement previously, concurrently or hereafter executed between Nonborrower Trustor and Beneficiary.

9. SITE VISITS, APPRAISALS, OBSERVATION AND TESTING. Beneficiary, through its agents, representatives or employees, is authorized to enter at any reasonable time upon or any part of the Property for the purpose of performing appraisals, observing the condition thereof, taking and removing soil, groundwater or other material samples, and conducting tests on any part thereof. Trustor agrees to cooperate with Beneficiary and its agents, representatives or employees (and use best efforts to cause the tenants on the Property to cooperate with same) in permitting access to the Property and in obtaining samples, operating and other relevant information for the Property. Beneficiary shall have no obligation or duty to so, however, and no site visit, observation or testing by Beneficiary shall impose any liability on Beneficiary. In no event shall any site visit, observation or testing by Beneficiary be a representation that Hazardous Substances (as defined below) are or are not present in, on or under the Property, or that there has been or shall be compliance with any law, regulation or ordinance pertaining to Hazardous Substances or any other applicable governmental law. Neither Trustor nor any other party is entitled to rely on any site visit, observation or testing by Beneficiary. Beneficiary owes no duty of care to protect Trustor or any other party against, or to inform Trustor or any other party of, any Hazardous Substances or any other adverse condition affecting the Property. Beneficiary shall (a) give Trustor reasonable notice to avoid interfering with Trustor's use of the Property in exercising any rights provided for in this Section, and (b) reimburse Trustor for the cost of repair of any physical injury to the Property caused by Beneficiary in exercising such rights. For purposes of this Section, "Hazardous Substance" means any substance, material or waste which is or becomes designated, classified or regulated as being "toxic" or "hazardous" or which is or becomes similarly designated, classified or regulated under any federal, state or local law, regulation or ordinance.



10. MISCELLANEOUS.

10.1 Governing Law. This Mortgage is to be governed and construed in accordance with the laws of the state in which the Property is located and federal law as applicable, except with respect to any portion of the Property located in another state, in which case the laws of the state in which such portion of the Property is located (and federal law as applicable) shall be applicable hereto, but only to the extent required for Trustee or Beneficiary to enforce or realize upon the rights and remedies hereunder with respect thereto.

10.2 Severability. In the event any one or more of the provisions contained in this Mortgage, in the Debt Instrument or in any of the other Loan Documents shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

10.3 Amendment. This Mortgage cannot be modified, waived, discharged or terminated orally, but only by a written instrument signed by the party against whom enforcement of the modification, waiver, discharge or termination is asserted.

10.4 Waiver of Remedies. By accepting payment of any amount secured hereby after its due date, or an amount which is less than the amount then due, or the performance of any obligation required hereunder after the date required for such performance, Beneficiary does not waive its rights either to require prompt payment or performance when due of all other amounts or obligations so secured, or to declare a default as herein provided for the failure to so pay or perform.

10.5 No Implied Waiver. No waiver by Beneficiary of any default or breach by Trustor hereunder shall be implied from any omission by Beneficiary to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default identified in the waiver and such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by Beneficiary to or of any act by Trustor requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act. No delay or omission of Trustee or Beneficiary in the exercising of any right or remedy available upon an Event of Default shall impair such right or remedy or any other right or remedy nor shall the same be construed to be a waiver of any Event of Default or any acquiescence therein, and no custom or practice which may develop between Trustor and Beneficiary during the term hereof shall be deemed a waiver of or any way affect the right of Beneficiary to insist upon the performance by Trustor of the obligations secured hereby in strict accordance with the terms hereof or of any other Loan Document.

10.6 Full Reconveyance. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Mortgage and the Debt Instrument to Trustee for cancellation and retention and upon payment by Trustor of Trustee's fees, Trustee shall reconvey to Trustor, or the person or persons legally entitled thereto, without warranty, any portion of the Trust Estate then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto."

10.7 Notices. Whenever Beneficiary, Trustor or Trustee shall desire to give or serve any notice, demand, request or other communication with respect to this Mortgage, each such notice, demand, request or other communication (including communications by telegraph, telex or telecommunication facilities providing facsimile transmission) shall be in writing and shall be effective only if the same is delivered by personal service, mailed (postage prepaid, return receipt requested), or telegraphed, telexed



or transmitted addressed to the address set forth herein. Any such notice if so mailed shall be deemed to have been received by the addressee on the third day following the date of such mailing. Any party may at any time change its address for such notices by delivering or mailing to the other parties hereto, as aforesaid, a notice of such change.

10.8 Acceptance by Trustee. Trustee accepts this trust when this Mortgage, duly executed and acknowledged, is made a public record as provided by law.

10.9 Certain Actions of Trustee. At any time or from time to time without liability therefor and without notice, upon written request of Beneficiary and presentation of this Mortgage and the Debt Instrument for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby or the effect of this Mortgage upon the remainder of the Trust Estate, Trustee may (a) reconvey any part of the Trust Estate, (b) consent in writing to the making of any map or plat thereof, (c) join in granting any easement thereon, or (d) join in any extension agreement or any agreement subordinating the lien or charge hereof.

10.10 Successor Trustee. Beneficiary acting alone may, from time to time, by written instrument executed and acknowledged by Beneficiary, mailed to Trustor and recorded in the County in which the Property is located, substitute a successor or successors to the Trustee named herein or acting hereunder.

10.11 Successors and Assigns. This Mortgage applies to and shall be binding on and enure to the benefit of all parties to this Mortgage and their respective successors and assigns.

10.12 Interpretation. In this Mortgage, whenever the context so requires, the masculine gender shall include the feminine and/or neuter and the singular number shall include the plural and conversely in each case. The word "include(s)" means "include(s) without limitation," and the word "including" means "including, but not limited to." No listing of specific instances, items or matters shall in any way limit the scope or generality of any language in this Mortgage.

10.13 Joint and Several Liability. All obligations of each Trustor hereunder shall be joint and several.

10.14 Headings. Headings are for convenience only and are not intended as a limitation on the content of the paragraph following or as an aid to the construction thereof.

10.15 Waiver. To the fullest extent permitted by law, Trustor waives the pleading of any statute of limitations as a defense to any and all obligations secured by this Mortgage.

10.16 Merger. No merger shall occur as a result of Beneficiary's acquiring any other estate in or any other lien on the Trust Estate unless Beneficiary consents to such merger in writing.

10.17 In-House Counsel Fees. Whenever Trustor is obligated to pay or reimburse Beneficiary or Trustee for any attorneys' fees, those fees shall include the allocated cost for the services of in-house counsel.

10.18 Request for Notice. Trustor hereby requests that a copy of any notice of default and any notice of sale hereunder be mailed to it at the address set forth herein or at such other address as Trustor may designate pursuant to this Section. That address is also the mailing address of Trustor as debtor under the UCC. Beneficiary's address given herein is the address for Beneficiary as secured party under the UCC.



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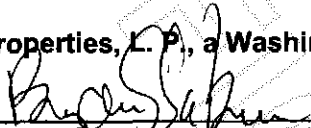
10.19 Fixture Filing. This Mortgage constitutes a financing statement filed as a fixture filing pursuant to the UCC, as amended or recodified from time to time, covering any portion of the Trust Estate which now is or later may become a fixture attached to the Property.


10.20 Counterparts. This Mortgage and each other Loan Document (other than the Debt Instrument) may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document.

Trustor has caused this Mortgage to be executed as of the day and year first above written.

TRUSTOR:

S/G Properties, L. P., a Washington limited partnership

By: 
Bryan S. Sakuma, General Partner

By: 
Satoru Sakuma, General Partner



201308280059

**EXHIBIT "A" to the Amended and Restated Mortgage
DESCRIPTION OF REAL PROPERTY**

This Exhibit "A" is attached to that certain Amended and Restated Mortgage dated August 8, 2013 executed by S/G Properties, L. P., a Washington limited partnership as Trustor.

ASSESSOR'S PARCEL NUMBER(S) OF COLLATERAL PROPERTY:

340302-3-003-0400 (P103461), 340302-3-003-0500 (P103462), 340303-4-003-0003 (P21092), 340303-4-005-0001 (P21096)

LEGAL DESCRIPTION:

PARCEL "A":

That portion of the Southwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 2, Township 34 North, Range 3 East, W.M., lying Southerly of Ovenell Road, EXCEPT dike and ditch rights of way.

Situate in the County of Skagit, State of Washington.

PARCEL "B":

That portion of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 3, Township 34 North, Range 3 East, W.M., lying Southerly of Ovenell Road, EXCEPT ditch and dike rights of way.

Situate in the County of Skagit, State of Washington.

PARCEL "C":

That portion of the East $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 3, Township 34 North, Range 3 East, W.M., lying South of the centerline of the Boyd Hill ditch, being more particularly described as follows:

Beginning at the Southeast corner of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 3, said point being North $89^{\circ}17'30''$ West, 1,312.9 feet from the Section corner common to Sections 2, 3, 10 and 11;
thence along the South line of said Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, North $89^{\circ}17'30''$ West, 656.4 feet to the West line of the East $\frac{1}{2}$ of said Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$;
thence North $01^{\circ}01'00''$ West, 676.3 feet to the centerline of the Boyd Hill ditch, which point is witnessed by a 2 inch iron pipe set South $01^{\circ}01'00''$ East, 10 feet;
thence along the centerline of said Boyd Hill ditch, North $58^{\circ}00'30''$ East, 405.3 feet;
thence North $42^{\circ}09'30''$ East, 340.8 feet;
thence South $89^{\circ}56'30''$ East, 76.7 feet to the East line of said Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 3, said point being witnessed by a 2 inch iron pipe set South $00^{\circ}57'30''$ East, 10.0 feet;
thence South along the East line of said Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ to the point of beginning, EXCEPT that portion, if any, lying within the boundaries of the as built and existing County road commonly known as Ovenell Road, AND EXCEPT ditch and dike rights of way, if any.

Situate in the County of Skagit, State of Washington.



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Skagit County Auditor

8/28/2013 Page

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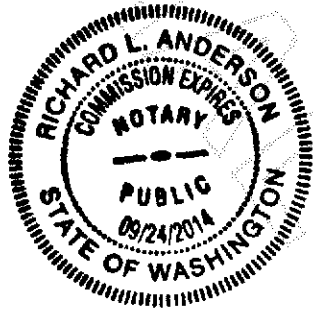
NOTARY ACKNOWLEDGMENT

STATE OF WASHINGTON)
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that Bryan S. Skums is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the General partner of S/G Properties, L.P. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: August 16, 2013

(Seal or stamp)



Richard L. Anderson
(Signature)

RICHARD L. ANDERSON

(Name legibly printed or stamped)

Notary Public in and for the State of Washington
residing at Burlington, WA 98233

My appointment expires 9/24/2014



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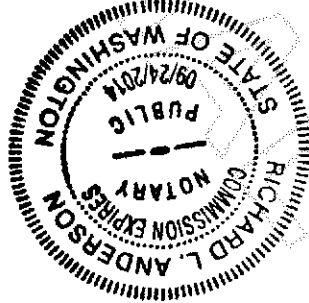
NOTARY ACKNOWLEDGMENT

STATE OF WASHINGTON)
)
COUNTY OF Skagit)

I certify that I know or have satisfactory evidence that Sitora Skuma is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the General Partner of S/G Properties LP to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: August 21, 2014

(Seal or stamp)

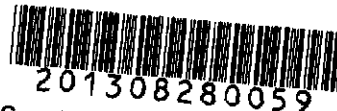


[Signature]
(Signature)

RICHARD L. ANDERSON
(Name legibly printed or stamped)

Notary Public in and for the State of Washington
residing at Burlington, WA 98233

My appointment expires Sept 24, 2014



CALIFORNIA NOTARY ACKNOWLEDGMENT FORM

STATE OF CALIFORNIA)
COUNTY OF Orange)

On August 27, 2013 before me Kathy Wilkinson, Notary Public, personally appeared Cynthia Rafael, 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(ies) 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 *Kathy Wilkinson* (SEAL)

