

After Recording, Return To:  
Don K. Lloyd  
1001 S.W. Fifth Avenue  
Suite 2000  
Portland, Oregon 97204-1136

**MODIFICATION OF LINE OF CREDIT INSTRUMENT, DEED OF TRUST  
AND SECURITY AGREEMENT WITH ASSIGNMENT OF RENTS,  
AND OTHER DEFINED "LOAN DOCUMENTS"**

This Modification of Line of Credit Instrument, Deed of Trust and Security Agreement With Assignment of Rents, and other Loan Documents (as defined herein) is made this 8 day of March, 1996 by and between Mark S. Hemstreet ("Grantor"), and The Bank of Tokyo, Ltd., a banking corporation organized under the laws of Japan and doing business in Portland, Oregon ("Beneficiary"), and Ticor Title Insurance Company ("Trustee"). This document is referred to herein and in the Modification of Note of the same date as of the "Modification of Deed of Trust."

**RECITALS**

A. Grantor, Key Bank of Oregon ("Key"), Beneficiary, South Valley State Bank, Commercial Bank, South Umpqua Bank, Bank of Commerce, Valley Commercial Bank and Bank of Newport entered into a Loan Commitment dated January 27, 1995 (herein "Loan Commitment").

B. Pursuant to the Loan Commitment, a construction loan was made to Grantor by Key. The construction has been completed, and the term lenders, as defined in the Loan Commitment, are purchasing the construction loan and converting it to a term loan.

C. Pursuant to the Loan Commitment, the term loan is to be made payable to the Bank of Tokyo, Ltd., with all of the other above-named banks, except for Key, participating in the term loan pursuant to a Term Loan Participation Agreement dated March 31, 1995. Key will act as servicing agent for the term lenders pursuant to a Commercial Loan Servicing Agreement dated July 18, 1995; however, Key will not participate in or fund any portion of the term loan.

D. Pursuant to the Loan Commitment, Key entered into the Construction Loan on March 28, 1995 with Grantor. The Construction Loan transaction is evidenced and documented by all of the documents set forth on the attached Exhibit A, which by this reference is incorporated herein, and all of such documents are herein collectively called the "Original Loan Documents".

E. The Construction Loan transaction is herein called the "Loan". The Loan is evidenced by a Note (the "Note") dated March 28, 1995 and secured by a Line of Credit Instrument, Commercial Deed of Trust and Security Agreement with Assignment of Rents, of the same date in which the Ticor Title Insurance Company of Oregon is named as Trustee (herein "Deed of Trust"). The Deed of Trust was recorded March 28, 1995 at Book M95, Page 7448, Records of Klamath County, Oregon. The Deed of Trust is being amended by an Amendment to Commercial Deed of Trust and Security Agreement with Assignment of Rents and to be recorded prior to this Modification of Deed of Trust. This Amendment submitted additional real property owned by Grantor to the terms of the Deed of Trust and the other Loan Documents. The term "Deed of Trust" as used herein and in the Modification of Note of even date herewith and the Assignment of Leases and Rents of even date herewith includes this Amendment. The Deed of Trust encumbers certain lands, premises, and property (the "Property") located in Klamath County, Oregon as more particularly described therein.

F. The Loan and the Note are further evidenced, guaranteed, and secured by the Original Loan Documents.

G. Beneficiary has received a full and complete assignment of all the right, title and interest of Key ("Assignor"), in the Loan and the Original Loan Documents.

H. By instrument of even date herewith, Grantor and Beneficiary have entered into a Modification of Note pursuant to which Grantor and Beneficiary have modified the Note. The term "Note" as used herein includes the Note as modified by the Modification of Note. The outstanding principal balance of the Loan as evidenced by the Modification of Note is now \$8,025,000.

NOW, THEREFORE, the parties hereto agree as follows:

1. INCORPORATION OF RECITALS. The Recitals set forth above are true, accurate and correct and are incorporated herein as if set forth in full.

2. REAFFIRMATION OF LOAN. Grantor and Beneficiary agree (a) that Grantor has completed the building and received the necessary governmental approvals for occupancy; and (b) that Grantor, Key and Beneficiary have each fully performed and discharged their respective duties under the Original Loan Documents to the date hereof. As used herein the term "Loan Documents" include this Modification of Deed of Trust, the Modification of Note, and the Assignment of Rents and Leases of even date herewith, and the Original Loan Documents. Except as specifically modified herein, or in the Assignment of Leases and Rents, or in the Modification of Note, Grantor reaffirms all of its obligations under the Loan Documents, and Grantor acknowledges that he has no claims, off-sets or defenses with respect to the payment of sums due under the Note, or any other Loan Document. Grantor acknowledges that he has consented, and hereby further consents, to the assignment of the Loan and all and each of the Loan Documents to the Beneficiary. Grantor grants, acknowledges, and hereby submits to the terms and conditions, including but not limited to the power of sale, of

the Deed of Trust the real property described on Exhibit <sup>B</sup>~~A~~ attached hereto and by this reference incorporated herein.

3. **RELEASE.** As additional consideration to the Beneficiary for entering into this Modification Agreement, Grantor does hereby release and forever discharge Key, the Beneficiary, its officers, directors, employees, agents, successors and assigns, from any and all liability or claims of liability, whether known or unknown, of whatsoever nature arising out of, or based in whole or in part, upon any agreement, act or omission of Key or the Beneficiary, or of any person or entity, acting or purporting to act, on behalf of Key or the Beneficiary, occurring prior to the effective date of this Modification of Trust Deed.

4. **GRANTOR'S REPRESENTATIONS AND WARRANTIES.**

Grantor represents and warrants to Beneficiary that all representations and warranties made in the Loan Documents are true and correct as of the date hereof; that Beneficiary may rely on the truth and accuracy and completeness of such representations and warranties; and, that, Grantor acknowledges that Beneficiary would not fund the term loan as evidenced by the Modification of Note but for the truthfulness, accuracy and completeness of said representations and warranties.

5. **NOTICE TO GRANTOR.** Under Oregon law, agreements, promises, and commitments made by us after the effective date of this Act concerning loans and other credit extensions which are not for personal, family or household purpose or secured solely by the Grantor's residence must be in writing, express consideration and be signed by us to be enforceable.

6. **COSTS AND ATTORNEY FEES.** If the Note, Loan Documents or the Modification of Deed of Trust is placed in the hands of an attorney due to a default in the payment or performance of any of its terms, the defaulting party shall pay, immediately upon demand, the other party's reasonable attorney fees, collection costs, costs of either a litigation or a foreclosure report (whichever is appropriate), even though no suit or action is filed thereon, and any other fees or expenses incurred by the nondefaulting party.

7. TRUSTEE'S ACCEPTANCE OF TRUST. Trustee accepts this Modification of Deed of Trust on the terms and conditions set forth in Section 4.1 of the Deed of Trust.

Dated this 8<sup>th</sup> day of March, 1996.

Mark S. Hemstreet  
Mark S. Hemstreet

THE BANK OF TOKYO, LTD.

By: M. W. Kringle  
Name: M.W. Kringle  
Title: V.P.

TICOR TITLE INSURANCE COMPANY

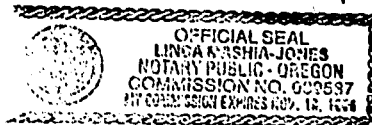
By: John B. Mitchell  
Name: John B. Mitchell  
Title: Asst Secretary

STATE OF OREGON )

County of Multnomah ss.

This instrument was acknowledged before me on this 13<sup>th</sup> day of March, 1996, by Mark S. Hemstreet and Michael Kringle

Linda Marshia-Jones  
Notary Public for Oregon  
My Commission Expires: Nov. 16, 1998



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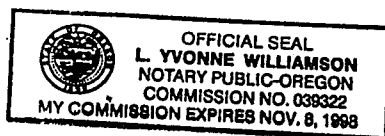
STATE OF OREGON )  
County of Multnomah ) ss.

This instrument was acknowledged before me on this 8 day of March, 1996, by Mark S. Hemstreet of The Eagle of Tokyo, Ltd.

[Signature]  
Notary Public for Oregon  
My Commission Expires: 11-8-98

STATE OF OREGON )  
County of Multnomah ) ss.

This instrument was acknowledged before me on this 14 day of March, 1996, by John B. Mitchell as Asst. Sec. of Tigor Title Insurance Company.



[Signature]  
Notary Public for Oregon  
My Commission Expires: 11-8-98

5 - MODIFICATION OF DEED OF TRUST

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**EXHIBIT "A"****Loan Documents**

1. Loan Commitment dated January 27, 1995, executed by Borrower and Key Bank of Oregon, The Bank of Tokyo, Ltd., South Valley State Bank, Commercial Bank, South Umpqua Bank, Bank of Commerce, Valley Commercial Bank and Bank of Newport.
2. UCC-1A executed by Borrower and recorded March 29, 1995, in book M95, page 7468, Klamath County, Oregon, records.
3. UCC-1 executed by Borrower and filed with the Oregon Secretary of State on April 20, 1995 as number 549145.
4. Environmental Agreement dated March 28, 1995, executed by Borrower.
5. Assignment of Permits, Licenses and Approvals dated March 28, 1995, executed by Borrower.
6. Assignment of Construction Contracts dated March 28, 1995, executed by Borrower.
7. Income Property Mortgage Loan Application dated October 20, 1994, executed by Borrower.
8. Construction Loan Agreement dated March 28, 1995, executed by Borrower.
9. Line of Credit Instrument, Commercial Deed of Trust and Security Agreement with Assignment of Rents dated March 28, 1995, executed by Borrower and recorded March 29, 1995, in book M95, page 7448, Klamath County, Oregon, records.
10. Promissory Note in the amount of \$6,955,000.00, dated March 28, 1995, executed by Borrower.
11. Title Insurance Policy issued by Ticor Title Insurance Company dated March 29, 1995 under policy number 38-3017-107-00001510.
12. Amendment to Commercial Deed of Trust and Security Agreement with Assignment of Rents identified as item 9 above, and to be recorded on the date this Assignment is recorded.

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# EXHIBIT "B" LEGAL DESCRIPTION

## PARCEL 1:

Lots 2, 3, 4, and 5, in Block 3 of Tract 1163, CAMPUS VIEW, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH that portion of vacated Almond Street which inurred thereto as evidenced by Ordinance 6597, recorded July 6, 1990 in Volume M90, page 13373, Microfilm Records of Klamath County, Oregon.

## PARCEL 2:

All that portion of the NW1/4 SW1/4 of Section 20, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, lying Northeasterly of the Eastside Bypass conveyed to the State of Oregon by deed recorded June 18, 1957 in Volume 292 at page 373, Deed Records of Klamath County, Oregon and recorded December 28, 1961 in Volume 334 at page 481, Deed Records of Klamath County, Oregon.

## PARCEL 3:

Lots 3, 4, and 5 in Block 4 of TRACT NO. 1163, CAMPUS VIEW, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH that portion of vacated Almond Street which inurred thereto, as evidence by Ordinance 6597 recorded July 6, 1990 in Volume M90, page 13373, Microfilm Records of Klamath County, Oregon.

## PARCEL 4:

Lots 1 and 6 in Block 3 of Tract No. 1163, CAMPUS VIEW, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Company the 19th day  
of March A.D., 19 96 at 4:00 o'clock PM., and duly recorded in Vol. M96,  
of Mortgages on Page 7441.

FEE \$40.00

By Bernetha G. Letsch, County Clerk  
Bernetha G. Letsch