Vol. M02 Page 45036

This instrument prepared by and after recording return to:

W. B. HUGHITT
U.S. BANK N.A.
COLLATERAL DEPARTMENT
P. O. BOX 5308
PORTLAND OR 97228-5308

0013579774

State of Oregon, County of Klamath
Recorded 08/09/2002 3:03 p. m.
Vol M02, Pg 45036-43
Linda Smith, County Clerk
Fee $ 16.00 # of Pgs 8

'02 AUG 9 PM3:03

MTC 57488

usbank
Five Star Service Guaranteed

OREGON TRUST DEED, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS AND LEASES (INCLUDING FIXTURE FILING UNDER UNIFORM COMMERCIAL CODE)

This Oregon Trust Deed, Security Agreement and Assignment of Rents and Leases (Including Fixture Filing Under Uniform Commercial Code) ("**Deed of Trust**") is made and entered into by WASHBURN PROPERTIES LLC (collectively the "**Grantor**") in favor of U.S. BANK TRUST COMPANY, N.A., having a mailing address of 555 SW OAK, PORTLAND, OR 97228-5308 ("the **Trustee**"), for the benefit of U.S. BANK N.A. (the "**Beneficiary**"), as of the date set forth on the last page of this Deed of Trust.

Check only one:

[X] The date on which the Note matures or the term of the Note expires, exclusive of any option to renew or extend such term or maturity, is AUGUST 1, 2012 .

[ ] The Note is payable on demand.

ARTICLE I. CONVEYANCE/MORTGAGED PROPERTY

1.1 Grant of Deed of Trust/Security Interest. IN CONSIDERATION OF FIVE DOLLARS ($5.00) cash in hand paid by the Trustee to the Grantor, and the financial accommodations from the Beneficiary to the Grantor as described below, the Grantor does hereby GRANT, BARGAIN AND SELL, MORTGAGE, WARRANT, CONVEY AND CONFIRM, ASSIGN, TRANSFER AND SET OVER unto Trustee, its successors and assigns IN TRUST, forever, for the benefit of the Beneficiary, the Mortgaged Property (defined below) to secure all of the Grantor's Obligations (defined below) to the Beneficiary. The intent of the parties hereto is that the Mortgaged Property secures all Obligations of the Grantor to the Beneficiary, whether now or hereafter existing, between the Grantor and the Beneficiary or in favor of the Beneficiary, including, without limitation, any note, any loan or security agreement, any lease, any other mortgage, deed of trust or other pledge of an interest in real or personal property, any guaranty, any letter of credit or reimbursement agreement or banker's acceptance, or any other agreement, whether or not enumerated herein, which specifically evidences or secures the Obligations (together and individually, the "**Loan Documents**"). The parties further intend that this Deed of Trust shall operate as a security agreement with respect to those portions of the Mortgaged Property which are subject to Article 9 of the Uniform Commercial Code.

1.2 "Mortgaged Property" means all of the following, whether now owned or existing or hereafter acquired by the Grantor, wherever located: all the real estate described below or in **Exhibit A** attached hereto (the "**Land**"), together with all buildings, structures, fixtures, equipment, inventory and furnishings used in connection with the Land and improvements; all materials, contracts, drawings and personal property relating to any construction on the Land; and all other improvements now or hereafter constructed, affixed or located thereon (the "Improvements") (the Land and the Improvements collectively the "Premises");

56 + 10 M

TOGETHER with any and all easements, rights-of-way, licenses, privileges, and appurtenances thereto, and any and all leases or other agreements for the use or occupancy of the Premises, all the rents, issues, profits or any proceeds therefrom and all security deposits and any guaranty of a tenant's obligations thereunder (collectively the **"Rents"**); all awards as a result of condemnation, eminent domain or other decrease in value of the Premises and all insurance and other proceeds of the Premises.

The Land is described as follows (or in Exhibit A hereto if the description does not appear below):

PROPERTY ADDRESS:
2128 WASHBURN WAY, KLAMATH FALLS, OREGON 97603

TITLE TO THE ESTATE OR INTEREST IN THE LAND IS VESTED IN:
WASHBURN PROPERTIES LLC

PARCEL 2 OF PARTITION #68-92, SAID PARTITION BEING LOCATED IN LOTS 1 AND 2, BLOCK 2, TRACT 1080-WASHBURN PARK, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY, OREGON, FILED JUNE 23, 1993.

Real Property Tax Identification Number 874034, 880969.

1.3 **"Obligations"** means all loans by the Beneficiary to WASHBURN PROPERTIES LLC evidenced by a note or notes dated 08/08/02, in the initial principal amount(s) of $ 334,000.00, and any extensions, renewals, restatements and modifications thereof and all principal, interest, fees and expenses relating thereto (the **"Note"**); and also means all other loans or advances to the Grantor from the Beneficiary and all other obligations of the Grantor to the Beneficiary, when the promissory note, guaranty or other document evidencing the loan, advance or obligation (as modified, amended, extended, renewed or replaced) specifically states that payment and performance thereof are secured by this Deed of Trust, whether such Obligations are now or hereafter existing or incurred, whether liquidated or unliquidated, and whether absolute or contingent; and principal, interest, fees, expenses and charges relating to any of the foregoing, including, without limitation, costs and expenses of collection and enforcement of this Deed of Trust, attorneys' fees of both inside and outside counsel and environmental assessment or remediation costs. The interest rate and maturity of such Obligations are as described in the documents creating the indebtedness secured hereby.

1.4 **Homestead.** The Premises are not (are)(are not) the homestead of the Grantor. If so, the Grantor releases and waives all rights under and by virtue of the homestead exemption laws of the State of Oregon.

ARTICLE II. WARRANTIES AND COVENANTS

In addition to all other warranties and covenants of the Grantor under the Loan Documents which are expressly incorporated herein as part of this Deed of Trust, including the covenants to pay and perform all Obligations, and while any part of the credit granted the Grantor under the Loan Documents is available or any Obligations of the Grantor to the Beneficiary are unpaid or outstanding, the Grantor continuously warrants to the Beneficiary and the Trustee and agrees as follows:

2.1 **Warranty of Title/Possession.** The Grantor warrants that it has sole and exclusive title to and possession of the Premises, excepting only the following **"Permitted Encumbrances"**: restrictions and easements of record, and zoning ordinances (the terms of which are and will be complied with, and in the case of easements, are and will be kept free of encroachments), taxes and assessments not yet due and payable and those Permitted Encumbrances set forth on **Exhibit B** attached hereto (except that if no **Exhibit B** is attached, there will be no additional Permitted Encumbrances). The lien of this Deed of Trust, subject only to Permitted Encumbrances, is and will continue to be a valid first and only lien upon all of the Mortgaged Property.

2.2 **Maintenance; Waste; Alteration.** The Grantor will maintain the Premises in good and tenantable condition and will restore or replace damaged or destroyed improvements with items of at least equal utility and value. The Grantor will not commit or permit waste to be committed on the Premises. The Grantor will not remove, demolish or materially alter any part of the Premises without the Beneficiary's prior written consent, except the Grantor may remove a fixture, provided the fixture is promptly replaced with another fixture of at least equal utility. The replacement fixture will be subject to the priority lien and security of this Deed of Trust.

2.3 **Transfer and Liens.** The Grantor will not, without the prior written consent of the Beneficiary, which may be withheld in the Beneficiary's sole and absolute discretion, either voluntarily or involuntarily (a) sell, assign, lease or transfer, or permit to be sold, assigned, leased or transferred, any part of the Premises, or any interest therein; or (b) pledge or otherwise encumber, create or permit to exist any mortgage, pledge, lien or claim for lien or encumbrance upon any part of the Premises or interest therein, except for the Permitted Encumbrances. Beneficiary has not consented and will not consent to any contract or to any work or to the furnishing of any materials which might be deemed to create a lien or liens superior to the lien of this Deed of Trust.

2.4 **Escrow.** After written request from the Beneficiary, the Grantor will pay to the Beneficiary sufficient funds at such time as the Beneficiary designates, to pay (a) the estimated annual real estate taxes and assessments on the Premises; and (b) all property or

hazard insurance premiums when due. Interest will not be paid by the Beneficiary on any escrowed funds unless otherwise required by law. Escrowed funds may be commingled with other funds of the Beneficiary. All escrowed funds are hereby pledged as additional security for the Obligations.

2.5 Taxes, Assessments and Charges. To the extent not paid to the Beneficiary under 2.4 above, the Grantor will pay before they become delinquent all taxes, assessments and other charges now or hereafter levied or assessed against the Premises, against the Beneficiary based upon this Deed of Trust or the Obligations secured by this Deed of Trust, or upon the Beneficiary's interest in the Premises, and deliver to the Beneficiary receipts showing timely payment.

2.6 Insurance. The Grantor will continually insure the Premises against such perils or hazards as the Beneficiary may require, in amounts, with acceptable co-insurance provisions, not less than the unpaid balance of the Obligations or the full replacement value of the Improvements, whichever is less. The policies will contain an agreement by each insurer that the policy will not be terminated or modified without at least thirty (30) days' prior written notice to the Beneficiary and will contain a mortgage clause acceptable to the Beneficiary; and the Grantor will take such other action as the Beneficiary may reasonably request to ensure that the Beneficiary will receive (subject to no other interests) the insurance proceeds from the Improvements. The Grantor hereby assigns all insurance proceeds to and irrevocably directs, while any Obligations remain unpaid, any insurer to pay to the Beneficiary the proceeds of all such insurance and any premium refund; and authorizes the Beneficiary to endorse the Grantor's name to effect the same, to make, adjust or settle, in the Grantor's name, any claim on any insurance policy relating to the Premises. The proceeds and refunds will be applied in such manner as the Beneficiary, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

2.7 Condemnation. Any compensation received for the taking of the Premises, or any part thereof, by a condemnation proceeding (including payments in compromise of condemnation proceedings), and all compensation received as damages for injury to the Premises, or any part thereof, shall be applied in such manner as the Beneficiary, in its sole and absolute discretion, determines to rebuilding of the Premises or to payment of the Obligations, whether or not then due and payable.

2.8 Environmental Matters. Except as specifically disclosed by Grantor to Beneficiary in writing prior to the execution of this Deed of Trust, Grantor represents and warrants as follows. There exists no uncorrected violation by the Grantor of any federal, state or local laws (including statutes, regulations, ordinances or other governmental restrictions and requirements) relating to the discharge of air pollutants, water pollutants or process waste water or otherwise relating to the environment or Hazardous Substances as hereinafter defined, whether such laws currently exist or are enacted in the future (collectively **"Environmental Laws"**). The term **"Hazardous Substances"** will mean any hazardous or toxic wastes, chemicals or other substances, the generation, possession or existence of which is prohibited or governed by any Environmental Laws. The Grantor is not subject to any judgment, decree, order or citation, or a party to (or threatened with) any litigation or administrative proceeding, which asserts that the Grantor (a) has violated any Environmental Laws; (b) is required to clean up, remove or take remedial or other action with respect to any Hazardous Substances (collectively **"Remedial Action"**); or (c) is required to pay all or a portion of the cost of any Remedial Action, as a potentially responsible party. Except as disclosed on the Borrower's environmental questionnaire provided to the Beneficiary, there are not now, nor to the Grantor's knowledge after reasonable investigation have there ever been, any Hazardous Substances (or tanks or other facilities for the storage of Hazardous Substances) stored, deposited, recycled or disposed of on, under or at any real estate owned or occupied by the Grantor during the periods that the Grantor owned or occupied such real estate, which if present on the real estate or in soils or ground water, could require Remedial Action. To the Grantor's knowledge, there are no proposed or pending changes in Environmental Laws which would adversely affect the Grantor or its business, and there are no conditions existing currently or likely to exist while the Loan Documents are in effect which would subject the Grantor to Remedial Action or other liability. The Grantor currently complies with and will continue to timely comply with all applicable Environmental Laws; and will provide the Beneficiary, immediately upon receipt, copies of any correspondence, notice, complaint, order or other document from any source asserting or alleging any circumstance or condition which requires or may require a financial contribution by the Grantor or Remedial Action or other response by or on the part of the Grantor under Environmental Laws, or which seeks damages or civil, criminal or punitive penalties from the Grantor for an alleged violation of Environmental Laws. In the event of any such circumstance or condition, the Grantor agrees, at its expense and at the request of the Beneficiary, to permit an environmental audit solely for the benefit of the Beneficiary, to be conducted by the Beneficiary or an independent agent selected by the Beneficiary and which may not be relied on by the Grantor for any purpose. This provision shall not relieve the Grantor from conducting its own environmental audits or taking any other steps necessary to comply with Environmental Laws.

2.9 Assignments. The Grantor will not assign, in whole or in part, without the Beneficiary's prior written consent, the rents, issues or profits arising from the Premises.

2.10 Right of Inspection. The Beneficiary may at all reasonable times enter and inspect the Premises.

2.11 Waivers by Grantor. To the greatest extent that such rights may then be lawfully waived, the Grantor hereby agrees for itself and any persons claiming under the Deed of Trust that it will waive and will not, at any time, insist upon or plead or in any manner whatsoever claim or take any benefit or advantage of (a) any exemption, stay, extension or moratorium law now or at any time hereafter in force; (b) any law now or hereafter in force providing for the valuation or appraisement of the Premises or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained or pursuant to the decree, judgment

or order of any court of competent jurisdiction; (c) to the extent permitted by law, any law now or at any time hereafter made or enacted granting a right to redeem from foreclosure or any other rights of redemption in connection with foreclosure of, or exercise of any power of sale under, this Deed of Trust; (d) any statute of limitations now or at any time hereafter in force; or (e) any right to require marshalling of assets by the Beneficiary.

2.12 Assignment of Rents and Leases. The Grantor assigns and transfers to the Beneficiary, as additional security for the Obligations, all right, title and interest of the Grantor in and to all leases which now exist or hereafter may be executed by or on behalf of the Grantor covering the Premises and any extensions or renewals thereof, together with all Rents, it being intended that this is an absolute and present assignment of the Rents. Notwithstanding that this assignment constitutes a present assignment of leases and rents, the Grantor may collect the Rents and manage the Premises, but only if and so long as a default has not occurred. If a default occurs, the right of Grantor to collect the Rents and to manage the Premises shall thereupon automatically terminate and such right, together with other rights, powers and authorizations contained herein, shall belong exclusively to the Beneficiary. This assignment confers upon the Beneficiary a power coupled with an interest and cannot be revoked by the Grantor. Upon the occurrence of a default, the Beneficiary, at its option without notice and without seeking or obtaining the appointment of a receiver or taking actual possession of the Premises may (a) give notice to any tenant(s) that the tenant(s) should begin making payments under their lease agreement(s) directly to the Beneficiary or its designee; (b) commence a foreclosure action and file a motion for appointment of a receiver; or (c) give notice to the Grantor that the Grantor should collect all Rents arising from the Premises and remit them to the Beneficiary upon collection and that the Grantor should enforce the terms of the lease(s) to ensure prompt payment by tenant(s) under the lease(s). All Rents received by the Grantor shall be held in trust by the Grantor for the Beneficiary. All such payments received by the Beneficiary may be applied in any manner as the Beneficiary determines to payments required under this Deed of Trust, the Loan Documents and the Obligations. The Grantor agrees to hold each tenant harmless from actions relating to tenant's payment of Rents to the Beneficiary.

2.13 Fixture Filing. From the date of its recording, this Deed of Trust shall be effective as a financing statement filed as a fixture filing under the Uniform Commercial Code with respect to the Improvements and for this purpose the name and address of the debtor is the name and address of the Grantor as set forth in this Deed of Trust and the name and address of the secured party is the name and address of the Beneficiary as set forth in this Deed of Trust. The Mortgaged Property includes goods which are or may become so affixed to real property as to become fixtures. If any of the Mortgaged Property is of a nature such that a security interest therein can be perfected under the Uniform Commercial Code, this Deed of Trust shall also constitute the grant of a security interest to the Beneficiary and serve as a Security Agreement, and Grantor authorizes the filing of any financing statements and agrees to execute other instruments that may be required for the further specification, perfection or renewal of such security interest.

ARTICLE III. RIGHTS AND DUTIES OF THE BENEFICIARY

In addition to all other rights (including setoff) and duties of the Beneficiary under the Loan Documents which are expressly incorporated herein as a part of this Deed of Trust, the following provisions will also apply:

3.1 Beneficiary Authorized to Perform for Grantor. If the Grantor fails to perform any of the Grantor's duties or covenants set forth in this Deed of Trust, the Beneficiary may perform the duties or cause them to be performed, including, without limitation, signing the Grantor's name or paying any amount so required, and the cost, with interest at the default rate set forth in the Loan Documents, will immediately be due from the Grantor to the Beneficiary from the date of expenditure by the Beneficiary to date of payment by the Grantor, and will be one of the Obligations secured by this Deed of Trust. All acts by the Beneficiary are hereby ratified and approved, and the Beneficiary will not be liable for any acts of commission or omission, nor for any errors of judgment or mistakes of fact or law.

ARTICLE IV. DEFAULTS AND REMEDIES

The Beneficiary may enforce its rights and remedies under this Deed of Trust upon default. A default will occur if the Grantor fails to comply with the terms of any Loan Documents (including this Deed of Trust or any guaranty by the Grantor) or a demand for payment is made under a demand loan, or the Grantor defaults on any other mortgage affecting the Land, or if any other obligor fails to comply with the terms of any Loan Documents for which the Grantor has given the Beneficiary a guaranty or pledge. Upon the occurrence of a default, the Beneficiary may declare the Obligations to be immediately due and payable.

4.1 Remedies. In addition to the remedies for default set forth below and in the other Loan Documents, including acceleration, the Beneficiary upon default will have all other rights and remedies for default available by law or equity. Upon a default, Beneficiary may exercise the following remedies:

(a) Enforcement of Assignment of Rents and Leases. Beneficiary may:

(i) terminate the license granted to Grantor to collect the Rents (regardless of whether Beneficiary or Trustee shall have entered into possession of the Mortgaged Property), collect and sue for the Rents in Beneficiary's own name, give receipts and releases therefor, and after deducting all expenses of collection, including reasonable attorneys' fees, apply the net proceeds thereof to any Obligations as Beneficiary may elect;

(ii) make, modify, enforce, cancel or accept surrender of any leases, evict tenants, adjust Rents, maintain, decorate, refurbish, repair, clean, and make space ready for renting, and otherwise do anything Beneficiary reasonably deems advisable in connec-

tion with the Mortgaged Property;

(iii) apply the Rents so collected to the operation and management of the Mortgaged Property, including the payment of reasonable management, brokerage and attorneys' fees, or to the Obligations; and

(iv) require Grantor to transfer and deliver possession of all security deposits and records thereof to Beneficiary.

(b) Power of Sale. Beneficiary may require the Trustee, and the Trustee is hereby authorized and empowered, to enter and take possession of the Premises and to sell all or part of the Mortgaged Property, at public auction, to the highest bidder for cash, free from equity of redemption, and any statutory or common law right of redemption, homestead, dower, marital share, and all other exemptions, after giving notice of the time, place and terms of such sale and of the Mortgaged Property to be sold, by advertising the sale of the property as required by the statutes of Oregon. The Trustee may sell all or any portion of the Mortgaged Property together or in lots or parcels, and may execute and deliver to the purchaser or purchasers of such property a conveyance in fee simple. The Trustee shall receive the proceeds thereof and shall apply the same as follows: (a) first, the payment of the expenses of making, maintaining and executing this trust, protection of the Mortgaged Property, including the expense of any litigation and reasonable attorneys' fees of Trustee and Beneficiary, other costs specified herein, and reasonable compensation to the Trustee; (b) second, to any advancements made by the Trustee or the Beneficiary pursuant hereto, with interest thereon; (c) third, to the payment of the Obligations herein secured or intended so to be, in such order as Beneficiary shall elect, and any balance of said Obligations may be the subject of immediate suit; (d) and, fourth, should there by any surplus, Trustee will pay it to the Grantor, or to such person as may be legally entitled thereto. The sale or sales by Trustee of less than the whole of the Mortgaged Property shall not exhaust the power of sale herein granted, and the Trustee is specifically empowered to make successive sale or sales under such power until the whole of the Mortgaged Property shall be sold; and if the proceeds of such sale or sales of less than the whole of the Premises shall be less than the aggregate of the Obligations and the expenses thereof, this Deed of Trust and the lien, security interest and assignment hereof shall remain in full force and effect as to the unsold portion of the Mortgaged Property; provided, however, that Grantor shall never have any right to require the sale or sales of less than the whole of the Mortgaged Property, but Beneficiary shall have the right at its sole election, to request the Trustee to sell less than the whole of the Mortgaged Property. Beneficiary may bid and become the purchaser of all or any part of the Mortgaged Property at any such sale, and the amount of Beneficiary's successful bid may be credited on the Obligations.

(c) Judicial and Other Relief. Beneficiary or Trustee may proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Mortgaged Property under the judgment or decree of any court or courts of competent jurisdiction. In the event that this Deed of Trust shall be foreclosed by judicial process, then to the fullest extent permitted by law, the Beneficiary shall be entitled to a deficiency judgment if the proceeds of such foreclosure shall be insufficient to pay all of the Obligations and allowed costs and expenses.

(d) Entry on Premises.

(i) Beneficiary may enter into and upon and take possession of all or any part of the Mortgaged Property, and may exclude Grantor, and all persons claiming under Grantor, and its agents or servants, wholly or partly therefrom; and, holding the same, Beneficiary may use, administer, manage, operate, and control the Mortgaged Property and may exercise all rights and powers of Grantor in the name, place and stead of Grantor, or otherwise, as the Beneficiary shall deem best; and in the exercise of any of the foregoing rights and powers Beneficiary shall not be liable to Grantor for any loss or damage thereby sustained unless due solely to the willful misconduct or gross negligence of Beneficiary.

(e) Receiver. Beneficiary may make application to a court of competent jurisdiction, as a matter of strict right and without notice to Grantor or regard to the adequacy of the Mortgaged Property for the repayment of the Obligations, for appointment of a receiver of the Mortgaged Property, and Grantor does hereby irrevocably consent to such appointment. Any such receiver shall have all necessary and proper powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Property upon such terms as may be approved by the court.

(f) Remedies Cumulative, Concurrent and Nonexclusive. If the Obligations are now or hereafter further secured by chattel mortgages, other deeds of trust, security agreements, pledges, contracts of guaranty, assignments of leases, or other security, Beneficiary may, at its option, exhaust its remedies under any one or more of said instruments and this Deed of Trust, either concurrently or independently, and in such order as Beneficiary may determine. Beneficiary shall have all rights, remedies and recourses granted in the Loan Documents and available to it at law or equity (including, without limitation, those granted by the Uniform Commercial Code), and same (a) shall be cumulative, concurrent, and nonexclusive, (b) may be pursued separately, successively or concurrently against Grantor or others obligated for the Obligations, or any part thereof or against any one or more of them, or against the Mortgaged Property, at the sole discretion of Beneficiary, and (c) may be exercised as often as occasion therefor shall arise, it being agreed by Grantor that the exercise of or failure to exercise any of same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse.

(g) Waiver by the Beneficiary. The Beneficiary may permit the Grantor to attempt to remedy any default without waiving its rights and remedies hereunder, and the Beneficiary may waive any default without waiving any other subsequent or prior default by the Grantor. Furthermore, delay on the part of the Beneficiary in exercising any right, power or privilege hereunder or at law

will not operate as a waiver thereof, nor will any single or partial exercise of such right, power or privilege preclude other exercise thereof or the exercise of any other right, power or privilege. No waiver or suspension will be deemed to have occurred unless the Beneficiary has expressly agreed in writing specifying such waiver or suspension.

(h) Attorneys' Fees and Other Costs. Attorneys' fees, whether incurred before or after commencement of litigation or at trial, on appeal or in any other proceeding; costs of procuring title insurance commitments and title searches; appraisals; environmental testings, reports and audits; and other costs incurred in connection with this Deed of Trust may be recovered by the Beneficiary and included in any sale made hereunder or by judgment of foreclosure.

ARTICLE V. TRUSTEE

5.1 Action by Trustee. The Trustee named herein shall be clothed with full power to act when action hereunder shall be required, and to execute any conveyance of the Mortgaged Property. In the event that the substitution of the Trustee shall become necessary for any reason, the substitution of a trustee in the place of that named herein shall be sufficient. The term "Trustee" shall be construed to mean "Trustees" whenever the sense requires. The necessity of the Trustee herein named, or any successor in trust, making oath or giving bond, is expressly waived.

5.2 Employment of Agents. The Trustee, or any one acting in it's stead, shall have, in it's discretion, authority to employ all property agents and attorneys in the execution of this trust and/or in the conducting of any sale made pursuant to the terms hereof, and to pay for such services rendered out of the proceeds of the sale of the Mortgaged Property, should any be realized; and if no sale be made or if the proceeds of sale be insufficient to pay the same, then Grantor hereby undertakes and agrees to pay the cost of such services rendered to said Trustee. Trustee may rely on any document believed by it in good faith to be genuine. All money received by the Trustee shall, until used or applied as herein provided, be held in trust, but need not be segregated (except to the extent required by law), and the Trustee shall not be liable for interest thereon.

5.3 Indemnification of Trustee. If the Trustee shall be made a party to or shall intervene in any action or proceeding affecting the Mortgaged Property or the title thereto, or the interest of the Trustee or Beneficiary under this Deed of Trust, the Trustee and Beneficiary shall be reimbursed by Grantor, immediately and without demand, for all reasonable costs, charges and attorneys' fees incurred by them or either of them in any such case, and the same shall be secured hereby as a further charge and lien upon the Mortgaged Property.

5.4 Trustee and Successor Trustee. Beneficiary may at any time, including any time before, during or after the commencement or completion of any foreclosure proceeding, remove Trustee (with or without cause) and appoint a successor Trustee by an instrument executed, acknowledged and recorded in the real estate records, which recording may take place before, during or after the commencement or completion of any foreclosure proceeding, and any such successor Trustee shall thereupon succeed to Trustee as Trustee hereunder as if named herein. No defect in the removal of Trustee or in the appointment of a successor or in the execution and recording of such appointment shall affect the validity thereof. Additionally, whether the recording of the successor Trustee instrument takes place before, during or after the commencement or completion of any foreclosure proceeding shall have no effect upon the validity of said proceeding. Trustee shall not be disqualified by reason that Trustee is an officer, employee or stockholder of Beneficiary, or has an interest in the Obligations. All parties waive any objection to Trustee having any such interest. Trustee shall be liable only for gross negligence or willful misconduct. No indemnity or remedy herein conferred is exclusive of any other remedy or indemnity, but each shall be in addition to every other hereunder and at law or in equity. No delay or omission by Trustee or Beneficiary to exercise any right or power shall impair such right or power or be construed as a waiver of any default or an acquiescence therein. If Trustee shall have proceeded to enforce any right by foreclosure, entry or otherwise, and such proceedings are discontinued for any reason, or shall have been determined adversely, then Grantor and Trustee shall severally and respectively be restored to their former positions and rights hereunder.

ARTICLE VI. MISCELLANEOUS

In addition to all other miscellaneous provisions under the Loan Documents which are expressly incorporated as a part of this Deed of Trust, the following provisions will also apply:

6.1 Term of Deed of Trust/Release. This Deed of Trust shall continue in full force and effect until this Deed of Trust is released. If Grantor shall pay to Beneficiary the Obligations as and when the same shall become due and this Deed of Trust is no longer intended to secure future advances or future obligations, then the Mortgaged Property shall be released at the cost of Grantor.

6.2 Time of the Essence. Time is of the essence with respect to payment of the Obligations, the performance of all covenants of the Grantor and the payment of taxes, assessments, and similar charges and insurance premiums.

6.3 Subrogation. The Beneficiary will be subrogated to the lien of any deed of trust, mortgage or other lien discharged, in whole or in part, by the proceeds of the Note or other advances by the Beneficiary, in which event any sums otherwise advanced by the Beneficiary shall be immediately due and payable, with interest at the default rate set forth in the Loan Documents from the date of advance by the Beneficiary to the date of payment by the Grantor, and will be one of the Obligations secured by this Deed of Trust.

6.4 Choice of Law. This Deed of Trust will be governed by the laws of the state in which the Mortgaged Property is located. For all other purposes, the choice of law specified in the Loan Documents will govern.

6.5 Severability. Invalidity or unenforceability of any provision of this Deed of Trust shall not affect the validity or enforceability of any other provision.

6.6 Entire Agreement/Demand Obligations. This Deed of Trust is intended by the Grantor and the Beneficiary as a final expression of this Deed of Trust and as a complete and exclusive statement of its terms, there being no conditions to the full effectiveness of this Deed of Trust. No parol evidence of any nature shall be used to supplement or modify any terms. IN THE EVENT ANY OF THE OBLIGATIONS SECURED HEREBY IS PAYABLE UPON DEMAND, NEITHER THIS DEED OF TRUST NOR ANYTHING CONTAINED HEREIN SHALL BE DEEMED TO ALTER, LIMIT, OR OTHERWISE IMPINGE UPON THE DEMAND CHARACTER OF SUCH OBLIGATIONS.

6.7 Joint Liability; Successors and Assigns. If there is more than one Grantor, the liability of the Grantors will be joint and several, and the reference to "Grantor" shall be deemed to refer to each Grantor and to all Grantors. The rights, options, powers and remedies granted in this Deed of Trust and the other Loan Documents shall extend to the Beneficiary and to its successors and assigns, shall be binding upon the Grantor and its successors and assigns, and shall be applicable hereto and to all renewals, amendments and/or extensions hereof.

6.8 Indemnification. Except for harm arising from the Beneficiary's or the Trustee's willful misconduct, the Grantor hereby indemnifies and agrees to defend and hold the Beneficiary and the Trustee harmless from any and all losses, costs, damages, claims and expenses (including, without limitation, attorneys' fees and expenses) of any kind suffered by or asserted against the Beneficiary or the Trustee relating to claims by third parties arising out of the financing provided under the Loan Documents or related to the Mortgaged Property (including, without limitation, the Beneficiary's failure to perform its obligations relating to Environmental Matters described in Section 2.8 above) or the exercise by the Beneficiary or the Trustee of any of their respective powers, rights and remedies under this Deed of Trust. This indemnification and hold harmless provision will survive the termination of the Loan Documents and the satisfaction of this Deed of Trust and Obligations due the Beneficiary.

6.9 Notices. Notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid, (b) received by overnight delivery service, (c) received by telex, (d) received by telecopy, (e) received through the internet, or (f) when personally delivered.

6.10 Release of Rights of Dower, Homestead and Distributive Share. Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the Mortgaged Property, will not avail itself of any appraisement, valuation, redemption, stay, extension or exemption laws, or any so-called "moratorium laws", existing or hereafter enacted, to hinder the enforcement or foreclosure of this Deed of Trust, and hereby waives the benefit of such laws.

6.11 Copy. The Grantor hereby acknowledges the receipt of a copy of this Deed of Trust, together with a copy of each promissory note secured hereby, and all other documents executed by the Grantor in connection herewith.

6.12 Riders. The rider(s) attached hereto and recorded together with this Deed of Trust are hereby fully incorporated into this Deed of Trust. [Check applicable box(es)] ☐ Condominium Rider ☐ Second Deed of Trust Rider ☐ Construction Loan Rider ☐ Other(s) (Specify) _____

[SIGNATURE(S) AND NOTARIZATION ON NEXT PAGE]

45043

IN WITNESS WHEREOF, the undersigned has/have executed this Deed of Trust as of AUGUST 8, 2002.

(Individual Grantor)

Printed Name N/A

(Individual Grantor)

Printed Name N/A

WASHBURN PROPERTIES LLC
Grantor Name (Organization)

a OREGON LIMITED LIABILITY COMPANY

By Randall L Nunes member
RANDALL L. NUNES
Name and Title MEMBER

By Debra J. Nunes, member
DEBRA J. NUNES
Name and Title MEMBER

(Beneficiary Address)

555 SW OAK
PORTLAND, OR 97204

(Grantor Address)

1072 CASTLEWOOD DRIVE
MEDFORD, OR 97504

STATE OF Oregon
COUNTY OF Jackson
} ss.

This instrument was acknowledged before me on August 8, 2002 (Date), by RANDALL L. NUNES and DEBRA J. NUNES (Name(s) of person(s)),

as MEMBER and MEMBER (Type of authority, if any, e.g., officer, trustee; if an individual, state "an individual")

of WASHBURN PROPERTIES LLC (Name of entity on whose behalf the document was executed; use N/A if individual),

and that, as such officer, being authorized so to do, executed this instrument for the purposes therein contained.

(Notarial Seal)

OFFICIAL SEAL
LINDA R. PRUITT
NOTARY PUBLIC-OREGON
COMMISSION NO. 319758
MY COMMISSION EXPIRES MAR. 01, 2003

Linda R Pruitt
Printed Name: Linda R. Pruitt
Title (and Rank):
My commission expires: 3-1-03